THE ONE HUNDRED AND NINTH DAY

CARSON CITY (Thursday), May 24, 2007

Senate called to order at 12: 29 p.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by Senator Washington.

Father, God, You said the steps of a good man and a good woman are ordered by the Lord. Today is a good day. There are so many things that we can be thankful for and grateful for. We are grateful for the opportunity just to be in Your presence and the opportunity to be about the business of this great State. I pray that You would bless these men and women. That You would inspire them, encourage them, crown them with wisdom and bless our efforts for the good of the whole, in Christ Jesus' Name.

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 Government Affairs, to which was referred Assembly Bill No. 139, 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 was referred Assembly Bill No. 460, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MAURICE E. WASHINGTON, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Assembly Bill No. 193, 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 Judiciary, to which was rereferred Assembly Bill No. 515, 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 was referred Assembly Bill No. 604, 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*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 23, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Senate Bills Nos. 147, 163, 206, 219, 243, 267, 293, 300.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 586, 619.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 3, Amendment No. 918; Senate Bill No. 53, Amendment No. 917; Senate Bill No. 78, Amendment No. 768; Senate Bill No. 103, Amendment No. 935; Senate Bill No. 111, Amendment No. 915; Senate Bill No. 143, Amendments Nos. 820, 933; Senate Bill No. 157, Amendment No. 889; Senate Bill No. 169, Amendment No. 859; Senate Bill No. 184, Amendment No. 821; Senate Bill No. 195, Amendment No. 787; Senate Bill No. 237, Amendment No. 887; Senate Bill No. 239, Amendment No. 822; Senate Bill No. 247, Amendment No. 823; Senate Bill No. 275, Amendment No. 811; Senate Bill No. 277, Amendment No. 689; Senate Bill No. 279, Amendment No. 912, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Assembly Concurrent Resolution No. 30.

LUCINDA BENJAMIN

Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Assembly Concurrent Resolution No. 30.

Senator Raggio moved that the resolution be referred to the Committee on Legislative Operations and Elections.

Motion carried.

Senator Raggio moved that for the remainder of this legislative session, 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.

Senator Raggio moved that for the remainder of the legislative Session, all concurrent and/or house resolutions reported out of committees be placed on the Resolution File, next agenda, time permitting.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved that for the remainder of the legislative Session, that all necessary rules be suspended, and that all bills and joint resolutions returned from reprint be declared emergency measures under the Constitution and immediately placed on third reading and final passage, time permitting.

Remarks by Senator Raggio.

Motion carried.

Senator Raggio moved for the remainder of the legislative Session, all concurrent resolutions returned from reprint be immediately placed on the Resolution File on the next agenda, time permitting.

Remarks by Senator Raggio.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 586.

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

Motion carried.

Assembly Bill No. 619.

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

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 63.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 753.

"SUMMARY—Revises provisions governing the additional penalty for the use of certain weapons in the commission of crime. (BDR 15-151)"

"AN ACT relating to crimes; revising the additional penalty that must be imposed under certain circumstances for using a firearm, other deadly weapon or a weapon containing or capable of emitting tear gas in the commission of a crime; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a person who uses a firearm, other deadly weapon or a weapon containing or capable of emitting tear gas in the commission of a crime must be punished by imprisonment in the state prison for a term equal to and in addition to the term of imprisonment for the underlying crime. (NRS 193.165) This bill revises the term of imprisonment for this additional penalty to require instead that ~~[, in addition to the punishment prescribed for the underlying crime,]~~ *if the court makes certain specific findings on the record,* a person who uses a firearm, other deadly weapon or a weapon containing or capable of emitting tear gas in the commission of a crime must be punished *, in addition to the punishment prescribed for the underlying crime,* by imprisonment in the state prison for a term of not less than 1 year and not more than 20 years. ~~[, except that the]~~ *However, the* additional term of imprisonment must not exceed the length of the sentence imposed for the underlying crime.

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

Section 1. NRS 193.165 is hereby amended to read as follows:

193.165 1. Except as otherwise provided in NRS 193.169, any person who uses a firearm or other deadly weapon or a weapon containing or capable of emitting tear gas, whether or not its possession is permitted by NRS 202.375, in the commission of a crime shall *, in addition to the term of imprisonment prescribed by statute for the crime,* be punished by imprisonment in the state prison for ~~[a term equal to and in addition to the]~~ *a minimum* term of ~~[imprisonment prescribed by statute for the crime.]~~ *not less than 1 year and a maximum term of not more than 20 years* ~~[. The]~~ *if the court makes specific findings on the record that:*

(a) The person deserves additional punishment, considering the seriousness of the use of the firearm or weapon in the commission of the crime;

(b) Additional punishment is equitable considering the punishment imposed upon other persons for similar offenses under similar circumstances; and

(c) Additional punishment is necessary to protect the public from further harm by the person.

2. Any sentence prescribed by this section ~~[runs]~~ *:*

(a) Must not exceed the sentence imposed for the crime; and

(b) Runs consecutively with the sentence prescribed by statute for the crime.

~~[2.]~~ *3.* This section does not create any separate offense but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

~~[3.]~~ *4.* The provisions of subsections 1 and 2 do not apply where the use of a firearm, other deadly weapon or tear gas is a necessary element of such crime.

~~[4.]~~ *5.* The court shall not grant probation to or suspend the sentence of any person who is convicted of using a firearm, other deadly weapon or tear gas in the commission of any of the following crimes:

(a) Murder;

(b) Kidnapping in the first degree;

(c) Sexual assault; or

(d) Robbery.

~~[5.]~~ *6.* As used in this section, ″deadly weapon″ means:

(a) Any instrument which, if used in the ordinary manner contemplated by its design and construction, will or is likely to cause substantial bodily harm or death;

(b) Any weapon, device, instrument, material or substance which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing substantial bodily harm or death; or

(c) A dangerous or deadly weapon specifically described in NRS 202.255, 202.265, 202.290, 202.320 or 202.350.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 285.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources:

Amendment No. 812.

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

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

Legislative Counsel's Digest:

Chapter 533 of NRS provides for the adjudication of water rights and the appropriation of water by the State Engineer. Section 1 of this bill provides that the State Engineer has full and exclusive authority with respect to the appropriation, allocation and determination of availability of unappropriated water and the place of diversion, manner of use and place of use of appropriated water. Section 3 of this bill authorizes the State Engineer to consider the consumptive use of a water right in determining the appropriateness of approving a proposed change in the place of diversion, manner of use or place of use of water pursuant to that right. Section 4 of this bill authorizes the State Engineer, upon approval of an application to appropriate water, to limit the initial use of that water to an amount that is less than the total amount approved. If the State Engineer at a later date determines that water is available for the total amount approved for the application, he may authorize the use of that additional amount.

Existing law provides for interested persons to protest applications to appropriate water. (NRS 533.365) Section 5 of this bill authorizes the State Engineer to refuse to consider a protest if certain information concerning the protest is not received by the State Engineer. Section 5 makes various other changes concerning protests before the State Engineer, including, without limitation, requiring the State Engineer to render a decision regarding each

application within 240 days after a hearing on the application and authorizing a successor in interest of a person who has filed a written protest to the application to be allowed to continue pursuing the protest in the same manner as the person who filed the original protest.

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

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

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

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

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

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

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

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

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

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

2. The provisions of this section:

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

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

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

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

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

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

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

3. ~~[The]~~ *Except as otherwise provided in subsection 4, the* State Engineer shall consider the protest, and may ~~[, in his discretion,]~~ hold hearings and require the filing of such evidence as he may deem necessary to a full understanding of the rights involved. The State Engineer shall give notice of the hearing by certified mail to both the applicant and the protestant. The notice must state the time and place at which the hearing is to be held and must be mailed at least 15 days before the date set for the hearing.

4. *In addition to the provisions of subsection 5, the State Engineer may refuse to consider the protest if the protestant fails to provide information relating to the protest required by the State Engineer.*

5. Each applicant and each protestant shall, in accordance with a schedule established by the State Engineer, provide to the State Engineer and

to each protestant and each applicant information required by the State Engineer relating to the application or protest.

6. The State Engineer or any member of his technical staff may communicate with any applicant, protestant, interested person, governmental entity, technical representative or expert for the purposes of obtaining information which the State Engineer deems necessary to act on a protested application if the State Engineer:

(a) Provides notice of the communication to each applicant, protestant, interested person, governmental entity, technical representative or expert with whom the State Engineer did not communicate with regard to the protested application; and

(b) Provides an opportunity to respond to each applicant, protestant, interested person, governmental entity, technical representative or expert specified in paragraph (a).

7. The State Engineer may invite technical representatives of the applicant, the protestant, an interested person or a governmental entity to meet with the technical staff of the State Engineer to consider issues relating to an application to appropriate water.

8. If the State Engineer holds a hearing pursuant to subsection 3, the State Engineer shall render a decision on each application not later that 240 days after the later of:

(a) The date all transcripts of the hearing become available to the State Engineer; or

(b) The date specified by the State Engineer for the filing of any additional information, evidence, studies or compilations requested by the State Engineer. The State Engineer may, for good cause shown, extend any applicable period.

9. The State Engineer shall adopt rules of practice regarding the conduct of ~~[such hearings.]~~ *a hearing held pursuant to subsection 3.* The rules of practice must be adopted in accordance with the provisions of NRS 233B.040 to 233B.120, inclusive, and codified in the Nevada Administrative Code. The technical rules of evidence do not apply at such a hearing.

~~[5.]~~ *10. If a person is the successor in interest of an owner of a water right or an owner of real property upon which a domestic well is located and if the former owner had previously filed a written protest against the granting of an application, the successor in interest must be allowed to pursue that protest in the same manner as if he were the former owner whose interest he succeeded. If the successor in interest wishes to pursue the protest, the successor in interest must notify the State Engineer of that fact on a form prescribed by the State Engineer.*

11. The provisions of this section do not prohibit the noticing of a new period of 45 days in which a person may file with the State Engineer a written protest against the granting of the application, if such notification is required to be given pursuant to subsection 8 of NRS 533.370.

12. As used in this section, "domestic well" has the meaning ascribed to it in NRS 534.350.

~~[Sec. 2.]~~ *Sec. 6.* NRS 533.370 is hereby amended to read as follows:

533.370 1. Except as otherwise provided in this section and NRS 533.345, 533.371, 533.372 and 533.503, the State Engineer shall approve an application submitted in proper form which contemplates the application of water to beneficial use if:

(a) The application is accompanied by the prescribed fees;

(b) The proposed use or change, if within an irrigation district, does not adversely affect the cost of water for other holders of water rights in the district or lessen the efficiency of the district in its delivery or use of water; and

(c) The applicant provides proof satisfactory to the State Engineer of:

(1) His intention in good faith to construct any work necessary to apply the water to the intended beneficial use with reasonable diligence; and

(2) His financial ability and reasonable expectation actually to construct the work and apply the water to the intended beneficial use with reasonable diligence.

2. Except as otherwise provided in this subsection and subsections 3 and ~~[8,]~~ ~~*[11,]*~~ *10 and NRS 533.365,* the State Engineer shall approve or reject each application within 1 year after the final date for filing a protest. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if an application is protested, by the protestant and the applicant.

(b) Postpone action if the purpose for which the application was made is municipal use.

(c) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

3. Except as otherwise provided in subsection ~~[8,]~~ ~~*[11,]*~~ *10,* the State Engineer shall approve or reject, within 6 months after the final date for filing a protest, an application filed to change the point of diversion of water already appropriated when the existing and proposed points of diversion are on the same property for which the water has already been appropriated under the existing water right or the proposed point of diversion is on real property that is proven to be owned by the applicant and is contiguous to the place of use of the existing water right. The State Engineer may:

(a) Postpone action upon written authorization to do so by the applicant or, if the application is protested, by the protestant and the applicant.

(b) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

4. If the State Engineer does not act upon an application within 1 year after the final date for filing a protest, the application remains active until acted upon by the State Engineer.

5. Except as otherwise provided in subsection ~~[8,]~~ ~~*[11,]*~~ *10,* where there is no unappropriated water in the proposed source of supply, or where its proposed use or change conflicts with existing rights or with protectible interests in existing domestic wells as set forth in NRS 533.024, or threatens to prove detrimental to the public interest, the State Engineer shall reject the application and refuse to issue the requested permit. If a previous application for a similar use of water within the same basin has been rejected on those grounds, the new application may be denied without publication.

6. In determining whether an application for an interbasin transfer of groundwater must be rejected pursuant to this section, the State Engineer shall consider:

(a) Whether the applicant has justified the need to import the water from another basin;

(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(c) Whether the proposed action is environmentally sound as it relates to the basin from which the water is exported;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and

(e) Any other factor the State Engineer determines to be relevant.

7. If a hearing is held regarding an application, the decision of the State Engineer must be in writing and include findings of fact, conclusions of law and a statement of the underlying facts supporting the findings of fact. The written decision may take the form of a transcription of an oral ruling. The rejection or approval of an application must be endorsed on a copy of the original application, and a record must be made of the endorsement in the records of the State Engineer. The copy of the application so endorsed must be returned to the applicant. Except as otherwise provided in subsection ~~[9,]~~ ~~*[12,]*~~ *11,* if the application is approved, the applicant may, on receipt thereof, proceed with the construction of the necessary works and take all steps required to apply the water to beneficial use and to perfect the proposed appropriation. If the application is rejected, the applicant may take no steps toward the prosecution of the proposed work or the diversion and use of the public water while the rejection continues in force.

8. *If:*

(a) The State Engineer receives an application to appropriate any of the public waters, or to change the point of diversion, manner of use or place of use of water already appropriated;

(b) The application involves an amount of water exceeding 250 acre-feet per annum;

(c) The application involves an interbasin transfer of groundwater; and

(d) Within 7 years after the date of last publication of the notice of application, the State Engineer has not granted the application, denied the application, held an administrative hearing on the application or issued a permit in response to the application,

➥ the State Engineer shall notice a new period of 45 days in which a person may file with the State Engineer a written protest against the granting of the application. Such notification must be entered on the Internet website of the State Engineer and must, concurrently with that notification, be mailed to the board of county commissioners of the county of origin.

9. Except as otherwise provided in ~~[subsection 10,]~~ NRS 533.365, a person who wishes to protest an application in accordance with a new period of protest noticed pursuant to subsection 8 shall, within 45 days after the date on which the notification was entered and mailed, file with the State Engineer a written protest that complies with the provisions of this chapter and with the regulations adopted by the State Engineer, including, without limitation, any regulations prescribing the use of particular forms or requiring the payment of certain fees.

10. ~~[If a person is the successor in interest of an owner of a water right, an owner of real property containing a domestic well or an owner of an interest in a domestic well, and if that previous owner had already filed a written protest against the granting of an application to allow an interbasin transfer of groundwater, the successor in interest must be allowed to pursue that protest in the same manner as though he were the previous owner to whose interest he succeeded. If such a successor in interest wishes to protest an application in accordance with a new period of protest noticed pursuant to subsection 8, the successor need not file with the State Engineer a new written protest but must, within 45 days after the date on which the notification was entered and mailed, inform the Office of the State Engineer that he wishes to continue pursuing the protest.~~

~~11.]~~ The provisions of subsections 1 to 6, inclusive, do not apply to an application for an environmental permit.

~~[9.]~~ *~~[12.]~~ 11.* The provisions of subsection 7 do not authorize the recipient of an approved application to use any state land administered by the Division of State Lands of the State Department of Conservation and Natural Resources without the appropriate authorization for that use from the State Land Registrar.

~~[10.]~~ *~~[13.]~~ 12.* As used in this section ~~[, "interbasin]~~ *:*

(a) "County of origin" means the county from which groundwater is transferred or proposed to be transferred.

(b) ~~["Domestic well" has the meaning ascribed to it in NRS 534.350.~~

~~(c)~~ *"Interbasin* transfer of groundwater*"* means a transfer of groundwater for which the proposed point of diversion is in a different basin than the proposed place of beneficial use.

Sec. 7. *NRS 533.380 is hereby amended to read as follows:*

533.380 1. Except as otherwise provided in subsection 5, in his endorsement of approval upon any application, the State Engineer shall:

(a) Set a time before which the construction of the work must be completed, which must be within 5 years after the date of approval.

(b) Except as otherwise provided in this paragraph, set a time before which the complete application of water to a beneficial use must be made, which must not exceed 10 years after the date of the approval. The time set under this paragraph respecting an application for a permit to apply water to a municipal or quasi-municipal use on any land:

(1) For which a final subdivision map has been recorded pursuant to chapter 278 of NRS;

(2) For which a plan for the development of a project has been approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(3) On any land for which a plan for the development of a planned unit development has been recorded pursuant to chapter 278A of NRS,

➥ must not be less than 5 years.

2. The State Engineer may limit the applicant to a smaller quantity of water, to a shorter time for the completion of work, and, except as otherwise provided in paragraph (b) of subsection 1, to a shorter time for the perfecting of the application than named in the application.

3. Except as otherwise provided in subsection 4 and NRS 533.395 and 533.4377, the State Engineer may, for good cause shown, *including, without limitation, a pending judicial proceeding,* extend the time within which construction work must be completed, or water must be applied to a beneficial use under any permit therefor issued by him, but an application for the extension must in all cases be:

(a) Made within 30 days following notice by registered or certified mail that proof of the work is due as provided for in NRS 533.390 and 533.410; and

(b) Accompanied by proof and evidence of the reasonable diligence with which the applicant is pursuing the perfection of the application.

➥ The State Engineer shall not grant an extension of time unless he determines from the proof and evidence so submitted that the applicant is proceeding in good faith and with reasonable diligence to perfect the application. The failure to provide the proof and evidence required pursuant to this subsection is prima facie evidence that the holder is not proceeding in good faith and with reasonable diligence to perfect the application.

4. Except as otherwise provided in subsection 5 and NRS 533.395, whenever the holder of a permit issued for any municipal or quasi-municipal use of water on any land referred to in paragraph (b) of subsection 1, or for any use which may be served by a county, city, town, public water district or

public water company, requests an extension of time to apply the water to a beneficial use, the State Engineer shall, in determining whether to grant or deny the extension, consider, among other factors:

(a) Whether the holder has shown good cause for not having made a complete application of the water to a beneficial use;

(b) The number of parcels and commercial or residential units which are contained in or planned for the land being developed or the area being served by the county, city, town, public water district or public water company;

(c) Any economic conditions which affect the ability of the holder to make a complete application of the water to a beneficial use;

(d) Any delays in the development of the land or the area being served by the county, city, town, public water district or public water company which were caused by unanticipated natural conditions; and

(e) The period contemplated in the:

(1) Plan for the development of a project approved by the local government pursuant to NRS 278.010 to 278.460, inclusive; or

(2) Plan for the development of a planned unit development recorded pursuant to chapter 278A of NRS,

➥ if any, for completing the development of the land.

5. The provisions of subsections 1 and 4 do not apply to an environmental permit.

6. For the purposes of this section, the measure of reasonable diligence is the steady application of effort to perfect the application in a reasonably expedient and efficient manner under all the facts and circumstances. When a project or integrated system is comprised of several features, work on one feature of the project or system may be considered in finding that reasonable diligence has been shown in the development of water rights for all features of the entire project or system.

Sec. 8. *The amendatory provisions of subsections 10 and 11 of section 5 and section 6 of this act do not apply to:*

1. An application to appropriate water filed before July 1, 2007;

2. An application to change the place of diversion, manner of use or place of use of appropriated water filed before that date; or

3. A written protest relating to an application specified in subsection 1 or 2.

~~[Sec. 3.]~~ *Sec. 9.* This act becomes effective on July 1, 2007.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 439.

Bill read second time.

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

Amendment No. 807.

"SUMMARY—Makes various changes relating to developing and maintaining affordable housing. (BDR 22-1302)"

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

Legislative Counsel′s Digest:

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

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

this bill ~~[set]~~ *sets* forth the formula for determining the amount of any such penalty. *Pursuant to section 7 of this bill, the penalty provisions do not become effective until October 1, 2008, and therefore do not apply to the initial annual reports submitted to the Housing Division.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

278.0105 "Affordable housing" means housing affordable for a family with a total gross income ~~[less than 110]~~ *that does not exceed 80* percent of

the median gross income for the county concerned based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for the county.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 514.

Bill read second time.

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

Amendment No. 883.

"SUMMARY—Makes various changes to the Charter of the City of Las Vegas. (BDR S-1381)"

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

Legislative Counsel's Digest:

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

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

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

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

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

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

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

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

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

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

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

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

Section 1. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto

a new section to be designated as section 2.145, immediately following section 2.140, to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4.040 Hearing Commissioners.

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

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

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

2. Each Hearing Commissioner must:

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

(b) Be a resident of the State;

(c) Be a qualified elector in the City;

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

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

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

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

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

Sec. 1.160 Elective Offices: Vacancies.

1. A vacancy in the office of Mayor, Councilman or Municipal Judge must be filled by the majority vote of the entire City Council within 30 ~~[60]~~ days after the occurrence of that vacancy. A person may be selected to fill a prospective vacancy ~~[in the City Council]~~ before the vacancy occurs. In such a case, each member of the Council, except any member whose term of office expires before the occurrence of the vacancy, may participate in any action taken by the Council pursuant to this section. The appointee must have the same qualifications as are required of the elective official ~~[.]~~ *, including, without limitation, any applicable residency requirement.*

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

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

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

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

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

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

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

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

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

1. The Mayor and Councilmen may not:

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

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

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

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

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

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

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

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

4. Each ordinance must be signed by the Mayor, attested by the City Clerk and published at least once by title, together with the names

of the members of the City Council who voted for or against its adoption, and the ordinance becomes effective on the day after that publication. The City Council may, by majority vote, order the publication of the ordinance in full in lieu of publication by title only.

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

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

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

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

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

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

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

Sec. 10. (Deleted by amendment.)

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

Sec. 3.150 City Treasurer: Duties.

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

2. The City Treasurer:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 10.010 Civil Service.

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

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

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

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

(a) The examination of potential employees;

(b) Recruitment and placement procedures;

(c) The classification of positions;

(d) Procedures for the promotion of employees;

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

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

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

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

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

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

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

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

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 567.

Bill read second time and ordered to third reading.

Senator Raggio moved that the Senate recess subject to the call of the Chair.

Motion carried.

Senate in recess at 12:48 p.m.

SENATE IN SESSION

At 12:53 p.m.

President Krolicki presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Senate Bill No. 90.

Bill read third time.

Roll call on Senate Bill No. 90:

YEAS—21.

NAYS—None.

Senate Bill No. 90 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 173.

Bill read third time.

Roll call on Senate Bill No. 173:
YEAS—21.
NAYS—None.

Senate Bill No. 173 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 186.
Bill read third time.
Roll call on Senate Bill No. 186:
YEAS—21.
NAYS—None.

Senate Bill No. 186 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 253.
Bill read third time.
Roll call on Senate Bill No. 253:
Yeas—21.
Nays—None.

Senate Bill No. 253 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 393.
Bill read third time.
Roll call on Senate Bill No. 393:
YEAS—21.
NAYS—None.

Senate Bill No. 393 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 422.
Bill read third time.
Roll call on Senate Bill No. 422:
YEAS—21.
NAYS—None.

Senate Bill No. 422 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 570.
Bill read third time.

Roll call on Senate Bill No. 570:
YEAS—21.
NAYS—None.

Senate Bill No. 570 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 13.
Bill read third time.
Roll call on Assembly Bill No. 13:
YEAS—21.
NAYS—None.

Assembly Bill No. 13 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 41.
Bill read third time.
Roll call on Assembly Bill No. 41:
YEAS—21.
NAYS—None.

Assembly Bill No. 41 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 50.
Bill read third time.
Roll call on Assembly Bill No. 50:
YEAS—21.
NAYS—None.

Assembly Bill No. 50 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 51.
Bill read third time.
Roll call on Assembly Bill No. 51:
YEAS—21.
NAYS—None.

Assembly Bill No. 51 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 53.
Bill read third time.

Roll call on Assembly Bill No. 53:
YEAS—21.
NAYS—None.

Assembly Bill No. 53 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 54.
Bill read third time.
Roll call on Assembly Bill No. 54:
YEAS—19.
NAYS—Carlton, Titus—2.

Assembly Bill No. 54 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 67.
Bill read third time.
Roll call on Assembly Bill No. 67:
YEAS—21.
NAYS—None.

Assembly Bill No. 67 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 80.
Bill read third time.
Remarks by Senators Care and Hardy.
Roll call on Assembly Bill No. 80:
YEAS—21.
NAYS—None.

Assembly Bill No. 80 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 87.
Bill read third time.
The following amendment was proposed by Senator McGinness:
Amendment No. 968.
"SUMMARY—Requires certain officers and employees of financial institutions to receive training concerning the exploitation of older persons and vulnerable persons and to report the suspected or known exploitation of older persons or vulnerable persons. (BDR 55-157)"
"AN ACT relating to financial institutions; requiring certain financial institutions to provide training to certain officers and employees concerning identifying the suspected exploitation of older persons and vulnerable

persons; requiring certain officers and employees who receive such training to report the suspected or known exploitation of an older or vulnerable person; ~~[providing for civil penalties for failure to report;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Sections 4-13 of this bill require certain financial institutions to provide training to certain officers and employees concerning the identification and reporting of the exploitation of older persons and vulnerable persons. "Older persons" are defined in existing law as persons who are 60 years of age or older. (NRS 200.5092) "Vulnerable persons" are defined in existing law as persons who are 18 years of age or older who: (1) suffer from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or (2) have one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living. (NRS 200.5092) Section 10 of this bill specifies which officers and employees must receive the training, when the training must be provided and the content of the training. Section 10 further requires those officers and employees to report incidents that reasonably appear to be exploitation of an older or vulnerable person. Section 11 of this bill requires each financial institution to designate a person to whom such reports must be made. The person so designated is then responsible for determining when a formal report must be reported to the appropriate agency. ~~[Section 12 of this bill provides for a civil penalty when an employee, officer or designated reporter who has received training fails to report an incident.]~~

Sections ~~[15-23]~~ *15-22* of this bill add similar provisions to the chapter governing savings and loan associations. (Chapter 673 of NRS) Sections ~~[25-33]~~ *25-32* of this bill add similar provisions to the chapter governing thrift companies. (Chapter 677 of NRS) Sections ~~[35-43]~~ *35-42* of this bill add similar provisions to the chapter governing credit unions. (Chapter 678 of NRS)

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. Chapter 657 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 12, inclusive, of this act.

Sec. 4. *As used in sections 4 to 12, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5 to 9, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 5. *"Designated reporter" means a person designated by a financial institution to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 11 of this act.*

Sec. 6. *"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.*

Sec. 7. *"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.*

Sec. 8. *"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.*

Sec. 9. *"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.*

Sec. 10. *1. Each financial institution shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each officer and employee of the financial institution who:*

(a) May, as part of his regular duties for the financial institution, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the officer or employee is employed by the financial institution.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. An officer or employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.

Sec. 11. *1. Each financial institution shall designate a person or persons to whom an officer or employee of the financial institution must report known or suspected exploitation of an older person or vulnerable person.*

2. If an officer or employee reports known or suspected exploitation of an older person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the designated reporter shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If an officer or employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. An officer, employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 12. ~~*[1. If an employee or officer who has received the training required pursuant to section 10 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a designated reporter or if a designated reporter fails to make a report pursuant to*~~

~~*section 11 of this act, the financial institution that employs the employee, officer or designated reporter is subject to a civil penalty in an amount:*~~

~~*(a) Not to exceed $1,000, if the failure to report was not willful; or*~~

~~*(b) Not to exceed $5,000, if the failure to report was willful.*~~

~~*2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.*~~

~~*3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.]*~~ *(Deleted by amendment.)*

Sec. 13. NRS 657.150 is hereby amended to read as follows:

657.150 As used in NRS 657.150 to 657.210, inclusive, *and sections 4 to 12, inclusive, of this act,* unless the context otherwise requires, the words and terms defined in NRS 657.160 and 657.170 have the meanings ascribed to them in those sections.

Sec. 14. Chapter 673 of NRS is hereby amended by adding thereto the provisions set forth as sections 15 to 23, inclusive, of this act.

Sec. 15. *As used in sections 15 to 23, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 16 to 20, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 16. *"Designated reporter" means a person designated by an association to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 22 of this act.*

Sec. 17. *"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.*

Sec. 18. *"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.*

Sec. 19. *"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.*

Sec. 20. *"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.*

Sec. 21. *1. Each association shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each director, officer and employee of the association who:*

(a) May, as part of his regular duties for the association, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the director, officer or employee is employed by the association or assumes the position.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. A director, officer or employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.

Sec. 22. *1. Each association shall designate a person or persons to whom a director, officer or employee of the association must report known or suspected exploitation of an older person or vulnerable person.*

2. If a director, officer or employee reports known or suspected exploitation of an older person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the designated reporter shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If a director, officer or employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. A director, officer, employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 23. ~~*[1. If a director, officer or employee who has received the training required pursuant to section 21 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a designated reporter or if a designated reporter fails to make a report pursuant to section 22 of this act, the association for which the director, officer or employee or designated reporter works is subject to a civil penalty in an amount:*~~

~~*(a) Not to exceed $1,000, if the failure to report was not willful; or*~~

~~*(b) Not to exceed $5,000, if the failure to report was willful.*~~

~~*2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.*~~

~~*3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.]*~~ *(Deleted by amendment.)*

Sec. 24. Chapter 677 of NRS is hereby amended by adding thereto the provisions set forth as sections 25 to 33, inclusive, of this act.

Sec. 25. *As used in sections 25 to 33, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 26 to 30, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 26. *"Designated reporter" means a person designated by a licensee to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 32 of this act.*

Sec. 27. *"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.*

Sec. 28. *"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.*

Sec. 29. *"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.*

Sec. 30. *"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.*

Sec. 31. *1. Each licensee shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each officer and employee of the licensee who:*

(a) May, as part of his regular duties for the licensee, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the officer or employee is employed by the licensee.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. An officer or employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.

Sec. 32. *1. Each licensee shall designate a person or persons to whom an officer or employee of the licensee must report known or suspected exploitation of an older person or vulnerable person.*

2. If an officer or employee reports known or suspected exploitation of an older person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the designated reporter shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If an officer or employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. An officer, employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 33. ~~*[1. If an employee or officer who has received the training required pursuant to section 31 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a designated reporter or if a designated reporter fails to make a report pursuant to*~~

~~*section 32 of this act, the licensee that employs the employee, officer or designated reporter is subject to a civil penalty in an amount:*~~

~~*(a) Not to exceed $1,000, if the failure to report was not willful; or*~~

~~*(b) Not to exceed $5,000, if the failure to report was willful.*~~

~~*2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.*~~

~~*3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.]*~~ *(Deleted by amendment.)*

Sec. 34. Chapter 678 of NRS is hereby amended by adding thereto the provisions set forth as sections 35 to 43, inclusive, of this act.

Sec. 35. *As used in sections 35 to 43, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 36 to 40, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 36. *"Designated reporter" means a person designated by a credit union to receive reports of known or suspected exploitation of an older person or vulnerable person pursuant to section 42 of this act.*

Sec. 37. *"Exploitation" has the meaning ascribed to it in subsection 2 of NRS 200.5092.*

Sec. 38. *"Older person" has the meaning ascribed to it in subsection 5 of NRS 200.5092.*

Sec. 39. *"Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.*

Sec. 40. *"Vulnerable person" has the meaning ascribed to it in subsection 7 of NRS 200.5092.*

Sec. 41. *1. Each credit union shall provide training concerning the identification and reporting of the suspected exploitation of an older person or vulnerable person to each employee of the credit union who:*

(a) May, as part of his regular duties for the credit union, come into direct contact with an older person or vulnerable person; or

(b) May review or approve the financial documents, records or transactions of an older person or vulnerable person in connection with providing financial services to the older person or vulnerable person.

2. The training required pursuant to subsection 1 must be provided as soon as reasonably practicable, but not later than 6 months after the employee is employed by the credit union.

3. The training required pursuant to subsection 1 must include, without limitation:

(a) An explanation of the conduct which constitutes exploitation of an older person or vulnerable person;

(b) The manner in which exploitation of an older person or vulnerable person may be recognized;

(c) Information concerning the manner in which reports of exploitation are investigated; and

(d) Instruction concerning when and how to report known or suspected exploitation of an older person or vulnerable person.

4. An employee who has observed or has knowledge of an incident that is directly related to a transaction or matter which is within his scope of practice and which reasonably appears to be exploitation of an older person or vulnerable person shall report the known or suspected exploitation to the designated reporter.

Sec. 42. *1. Each credit union shall designate a person or persons to whom an employee of the credit union must report known or suspected exploitation of an older person or vulnerable person.*

2. If an employee reports known or suspected exploitation of an older person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that an older person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 3, report the known or suspected exploitation of the older person to:

(1) The local office of the Aging Services Division of the Department of Health and Human Services;

(2) A police department or sheriff's office;

(3) The county's office for protective services, if one exists in the county where the suspected action occurred; or

(4) A toll-free telephone service designated by the Aging Services Division of the Department of Health and Human Services; and

(b) Make such a report as soon as reasonably practicable.

3. If the designated reporter knows or has reasonable cause to believe that the exploitation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the designated reporter shall make the report to an agency other than the one alleged to have committed the act or omission.

4. If an employee reports known or suspected exploitation of a vulnerable person to a designated reporter and, based on such a report or based on his own observations or knowledge, the designated reporter knows or has reasonable cause to believe that a vulnerable person has been exploited, the designated reporter shall:

(a) Except as otherwise provided in subsection 5, report the known or suspected exploitation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable.

5. If the designated reporter knows or has reasonable cause to believe that the exploitation of the vulnerable person involves an act or omission of a law enforcement agency, the designated reporter shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

6. In accordance with the provisions of subsection 3 of NRS 239A.070, in making a report pursuant to this section, a designated reporter may:

(a) Disclose any facts or information that form the basis of the determination that the designated reporter knows or has reasonable cause to believe that an older person or vulnerable person has been exploited, including, without limitation, the identity of any person believed to be involved in the exploitation of the older person or vulnerable person; and

(b) Provide any financial records or other documentation relating to the exploitation of the older person or vulnerable person.

7. An employee and the designated reporter are entitled to the immunity from liability set forth in NRS 200.5096 for making a report in good faith.

Sec. 43. ~~*[1. If an employee who has received the training required pursuant to section 41 of this act fails to report the suspected or known exploitation of an older person or vulnerable person to a designated reporter or if a designated reporter fails to make a report pursuant to section 42 of this act, the credit union that employs the employee or designated reporter shall be subject to a civil penalty in an amount:*~~

~~*(a) Not to exceed $1,000, if the failure to report was not willful; or*~~

~~*(b) Not to exceed $5,000, if the failure to report was willful.*~~

~~*2. A civil penalty pursuant to this section may be recovered only in a civil action brought in the name of the State of Nevada by the Attorney General or by a district attorney in a court of competent jurisdiction.*~~

~~*3. The provisions of this section do not limit or prohibit any other action and are in addition to any other remedy that may be available by law.]*~~ *(Deleted by amendment.)*

Senator McGinness moved the adoption of the amendment.

Remarks by Senators McGinness and Horsford.

Motion carried on a division of the house.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 90.

Bill read third time.

Roll call on Assembly Bill No. 90:

YEAS—21.

NAYS—None.

Assembly Bill No. 90 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 91.

Bill read third time.

Roll call on Assembly Bill No. 91:

YEAS—21.

NAYS—None.

Assembly Bill No. 91 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 92.

Bill read third time.

Remarks by Senator Amodei.

Senator Amodei moved that Assembly Bill No. 92 be taken from the General File and placed on the General File on the second agenda for the next legislative day.

Motion carried.

Assembly Bill No. 101.

Bill read third time.

Roll call on Assembly Bill No. 101:

YEAS—21.

NAYS—None.

Assembly Bill No. 101 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 107.

Bill read third time.

Remarks by Senator Beers.

Senator Beers moved that Assembly Bill No. 107 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Assembly Bill No. 110.

Bill read third time.

Senator Titus moved to withdraw Amendment No. 961 to Assembly Bill No. 110.

Motion carried.

Roll call on Assembly Bill No. 110:

YEAS—21.

NAYS—None.

Assembly Bill No. 110 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 112.

Bill read third time.

Roll call on Assembly Bill No. 112:

YEAS—21.

NAYS—None.

Assembly Bill No. 112 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 120.

Bill read third time.

Roll call on Assembly Bill No. 120:

YEAS—21.

NAYS—None.

Assembly Bill No. 120 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 127.

Bill read third time.

Remarks by Senator Beers.

Senator Beers moved that Assembly Bill No. 127 be taken from the General File and placed on the Secretary's desk.

Motion carried on a division of the house.

Assembly Bill No. 137.

Bill read third time.

Roll call on Assembly Bill No. 137:

YEAS—21.

NAYS—None.

Assembly Bill No. 137 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 142.

Bill read third time.

Roll call on Assembly Bill No. 142:

YEAS—21.

NAYS—None.

Assembly Bill No. 142 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 143.

Bill read third time.

Roll call on Assembly Bill No. 143:

YEAS—21.

NAYS—None.

Assembly Bill No. 143 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 145.

Bill read third time.

Remarks by Senator Hardy.

Senator Hardy requested that his remarks be entered in the Journal.

I have been asked by the sponsor to read the following statement into the record.

Assembly Bill No. 145 is simply a statement of Nevada public policy with respect to the assignment of benefits. The bill is not intended to, nor will it, vest any enforcement rights, duties or responsibilities on the Insurance Commissioner or the Attorney General's Office. Likewise, this bill is not intended to create any private right of action for any person, business or other entity against an unlicensed insurer in this State. Simply put, this bill will only allow the Insurance Commissioner or her designee to send a letter to an out-of-state insurer who is not licensed in Nevada and who does not honor an assignment of benefits designation by one of their insured to inform them that they are acting contrary to our State's public policy to honor those assignments. Those insurers can choose to conform their conduct with that public policy or ignore the letter. They will not be subject to any sort of sanctions or other actions that will, in any way, affect their ability to do business.

Roll call on Assembly Bill No. 145:

YEAS—21.

NAYS—None.

Assembly Bill No. 145 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 165.

Bill read third time.

Roll call on Assembly Bill No. 165:

YEAS—21.

NAYS—None.

Assembly Bill No. 165 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 176.

Bill read third time.

Roll call on Assembly Bill No. 176:

YEAS—21.

NAYS—None.

Assembly Bill No. 176 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 178.

Bill read third time.

Senator Townsend moved that Assembly Bill No. 178 be taken from the General File and placed on the Secretary's desk.

Remarks by Senator Townsend.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Nolan moved that Assembly Bill No. 600 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Nolan.

Motion carried.

Senator Hardy moved that Assembly Bill No. 373 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Hardy.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 194.

Bill read third time.

Roll call on Assembly Bill No. 194:

YEAS—20.

NAYS—Care.

Assembly Bill No. 194 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 195.

Bill read third time.

Roll call on Assembly Bill No. 195:

YEAS—21.

NAYS—None.

Assembly Bill No. 195 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 216.

Bill read third time.

Roll call on Assembly Bill No. 216:

YEAS—21.

NAYS—None.

Assembly Bill No. 216 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 228.

Bill read third time.

Roll call on Assembly Bill No. 228:

YEAS—19.

NAYS—Care, Horsford—2.

Assembly Bill No. 228 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 239.
Bill read third time.
Roll call on Assembly Bill No. 239:
YEAS—21.
NAYS—None.

Assembly Bill No. 239 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Washington moved that Assembly Bill No. 244 be taken from the General File and placed on the General File for the next legislative day.
Remarks by Senator Washington.
Motion carried.

Senator Washington moved that Assembly Bill No. 247 be taken from the General File and placed on the General File on the last agenda for the next legislative day.
Remarks by Senator Washington.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 249.
Bill read third time.
Roll call on Assembly Bill No. 249:
YEAS—21.
NAYS—None.

Assembly Bill No. 249 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 253.
Bill read third time.
Roll call on Assembly Bill No. 253:
YEAS—21.
NAYS—None.

Assembly Bill No. 253 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 263.
Bill read third time.
Roll call on Assembly Bill No. 263:
YEAS—21.
NAYS—None.

Assembly Bill No. 263 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 296.

Bill read third time.

Remarks by Senator Amodei.

Senator Amodei moved that Assembly Bill No. 296 be taken from the General File and placed on the General File on the last agenda for the next legislative day.

Motion carried.

Assembly Bill No. 304.

Bill read third time.

Roll call on Assembly Bill No. 304:

YEAS—21.

NAYS—None.

Assembly Bill No. 304 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 319.

Bill read third time.

Roll call on Assembly Bill No. 319:

YEAS—21.

NAYS—None.

Assembly Bill No. 319 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 321.

Bill read third time.

Roll call on Assembly Bill No. 321:

YEAS—21.

NAYS—None.

Assembly Bill No. 321 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 322.

Bill read third time.

Roll call on Assembly Bill No. 322:

YEAS—21.

NAYS—None.

Assembly Bill No. 322 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 331.

Bill read third time.

Remarks by Senator Amodei.

Senator Amodei moved that Assembly Bill No. 331 be taken from the General File and placed on the General File on the last agenda for the next legislative day.

Motion carried.

Assembly Bill No. 334.

Bill read third time.

Roll call on Assembly Bill No. 334:

YEAS—21.

NAYS—None.

Assembly Bill No. 334 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 342.

Bill read third time.

Roll call on Assembly Bill No. 342:

YEAS—21.

NAYS—None.

Assembly Bill No. 342 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 352.

Bill read third time.

Roll call on Assembly Bill No. 352:

YEAS—21.

NAYS—None.

Assembly Bill No. 352 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 375.

Bill read third time.

Remarks by Senator Townsend.

Senator Townsend moved that Assembly Bill No. 375 be taken from the General File and placed on the Secretary's desk.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Heck moved that Assembly Bill No. 385 be taken from the General File and placed on the Secretary's desk.

Remarks by Senator Heck.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 383.

Bill read third time.

Roll call on Assembly Bill No. 383:

YEAS—21.

NAYS—None.

Assembly Bill No. 383 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 391.

Bill read third time.

Roll call on Assembly Bill No. 391:

YEAS—21.

NAYS—None.

Assembly Bill No. 391 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 396.

Bill read third time.

Remarks by Senator Townsend.

Senator Townsend moved that Assembly Bill No. 396 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Assembly Bill No. 404.

Bill read third time.

Roll call on Assembly Bill No. 404:

YEAS—21.

NAYS—None.

Assembly Bill No. 404 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 406.

Bill read third time.

Roll call on Assembly Bill No. 406:

YEAS—21.

NAYS—None.

Assembly Bill No. 406 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 410.

Bill read third time.

Roll call on Assembly Bill No. 410:

YEAS—20.

NAYS—Schneider.

Assembly Bill No. 410 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 418.

Bill read third time.

Roll call on Assembly Bill No. 418:

YEAS—20.

NAYS—Titus.

Assembly Bill No. 418 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 421.

Bill read third time.

Remarks by Senators Amodei and Titus.

Roll call on Assembly Bill No. 421:

YEAS—15.

NAYS—Care, Carlton, Horsford, Titus, Wiener, Woodhouse—6.

Assembly Bill No. 421 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 424.

Bill read third time.

Remarks by Senators Heck, Carlton, Washington, Coffin, Schneider and Titus.

Senator Heck requested that his remarks be entered in the Journal.

Thank you, Mr. President. I would like to begin by thanking my colleague from District 2 for all of her work and cooperation in trying to bring forth some good public policy regarding this mental-health issue.

As many of us in this body know, the State of Nevada is facing a mental-health crisis. In August 2005, the Clark County Manager actually declared a state of emergency because of the mental-health crisis. Even after the Ross/Neal Hospital opened, we still have 70-90 people waiting in emergency departments to be moved to mental-health facilities.

Through my position as an emergency-department physician, as well as on the Southern Nevada Mental Health Advisory Coalition, I deal with these issues every day. We are still in a crisis, and a large part of the reason for that is the lack of out-patient services and access to clinical mental-health services.

Regarding this bill, there has been a lot of misinformation. These are some facts regarding this issue.

This bill requires licensed, professional counselors to be a graduate of a nationally accredited program with the same, or more, numbers of hours than any of the current mental-health disciplines currently licensed. They will be required to take a national certification exam. There have been some questions about that because there are two exams. One exam that has been questioned is utilized by 43 of the 50 jurisdictions that currently license professional counselors. The internship requirements in this bill are more stringent than any other internship requirements in any of the other mental-health disciplines. We are one of two states that do not already recognize this important credential. We currently have a pool of approximately 250 individuals who would be eligible for licensure and who would be able to provide services to the people who need them in this State if this pathway was available. Many of them would be in the rural areas.

It should be noted that this State has two counseling training programs, one at the University of Nevada, Las Vegas, and one at the University of Nevada, Reno. Both are nationally accredited but generate graduates who cannot be licensed to work in the state in which they went to school. This bill will address that problem. As a safeguard for many of the issues which have been brought up about protecting the public, this new licensure has been placed under an existing board, the Board of Examiners for Marriage and Family Therapists, and they will be able to decide what needs to move forward as far as to who is qualified and who is not qualified.

It is for all of these reasons that I believe this is good public policy that protects the public and increases access to mental health services. I encourage this body's support.

To address the comments from my colleagues as to how this would impact the mental-health system, we know that the high recidivism rate of people going in and out of the southern Nevada adult mental-health hospital is due to the fact that they cannot be put into out-patient services after they have been discharged. Having more mental-health professionals in the community will hopefully decrease the recidivism rate because they will get the out-patient care they need and prevent them from going into crisis and returning to the hospital. This bill is different from the provisions that were in the original bill taking into consideration the additional comments that were brought up during the hearing and through the debate on the original version.

Senators Raggio, Nolan and Rhoads moved the previous question.

Motion carried.

The question being on the passage of Assembly Bill No. 424.

Roll call on Assembly Bill No. 424:

YEAS—16.

NAYS—Care, Coffin, Mathews, Titus, Woodhouse—5.

Assembly Bill No. 424 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senator Raggio moved that the Senate recess until 2:30 p.m.

Motion carried.

Senate in recess at 2:07 p.m.

SENATE IN SESSION

At 2:41 p.m.

President Krolicki presiding.

Quorum present.

Assembly Bill No. 431.

Bill read third time.

Remarks by Senator Townsend.

Senator Townsend moved that Assembly Bill No. 431 be taken from the General File and placed on the General File on the last agenda for the next legislative day.

Motion carried.

Assembly Bill No. 433.

Bill read third time.

Roll call on Assembly Bill No. 433:

YEAS—21.

NAYS—None.

Assembly Bill No. 433 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 443.

Bill read third time.

Roll call on Assembly Bill No. 443:

YEAS—19.

NAYS—Beers, Cegavske—2.

Assembly Bill No. 443 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Washington moved that Assembly Bill No. 446 be taken from the General File and placed on the General File on the last agenda for the next legislative day.

Remarks by Senator Washington.

Motion carried.

Senator Titus moved that Assembly Bill No. 461 be taken from the General File and placed on the General File on the last agenda for the next legislative day.

Remarks by Senator Titus.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 463.

Bill read third time.

Roll call on Assembly Bill No. 463:

YEAS—21.

NAYS—None.

Assembly Bill No. 463 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 468.
Bill read third time.
Roll call on Assembly Bill No. 468:
YEAS—21.
NAYS—None.

Assembly Bill No. 468 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 478.
Bill read third time.
Remarks by Senator Townsend.
Senator Townsend moved that Assembly Bill No. 478 be taken from the General File and placed on the General File on the last agenda for the next legislative day.
Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Amodei moved that Assembly Bill No. 483 be taken from the General File and placed on the General File for the next legislative day.
Remarks by Senator Amodei.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 485.
Bill read third time.
Roll call on Assembly Bill No. 485:
YEAS—21.
NAYS—None.

Assembly Bill No. 485 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 489.
Bill read third time.
Roll call on Assembly Bill No. 489:
YEAS—21.
NAYS—None.

Assembly Bill No. 489 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 490.
Bill read third time.
Remarks by Senators Coffin and Washington.

Roll call on Assembly Bill No. 490:
YEAS—21.
NAYS—None.

Assembly Bill No. 490 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 493.
Bill read third time.
Roll call on Assembly Bill No. 493:
YEAS—21.
NAYS—None.

Assembly Bill No. 493 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 496.
Bill read third time.
Roll call on Assembly Bill No. 496:
YEAS—21.
NAYS—None.

Assembly Bill No. 496 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 497.
Bill read third time.
Roll call on Assembly Bill No. 497:
YEAS—17.
NAYS—Care, Carlton, Horsford, Mathews—4.

Assembly Bill No. 497 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 498.
Bill read third time.
Roll call on Assembly Bill No. 498:
YEAS—21.
NAYS—None.

Assembly Bill No. 498 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 507.
Bill read third time.

Roll call on Assembly Bill No. 507:
YEAS—21.
NAYS—None.

Assembly Bill No. 507 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 512.
Bill read third time.
Roll call on Assembly Bill No. 512:
YEAS—21.
NAYS—None.

Assembly Bill No. 512 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 516.
Bill read third time.
Roll call on Assembly Bill No. 516:
YEAS—21.
NAYS—None.

Assembly Bill No. 516 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 517.
Bill read third time.
Remarks by Senators Care, Cegavske and Raggio.
Roll call on Assembly Bill No. 517:
YEAS—20.
NAYS—Care.

Assembly Bill No. 517 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 518.
Bill read third time.
Remarks by Senator Townsend.
Senator Townsend moved that Assembly Bill No. 518 be taken from the General File and placed on the General File on the last agenda for the next legislative day.
Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Townsend moved that Assembly Bill No. 526 be taken from the General File and placed on the General File on the last agenda for the next legislative day.

Remarks by Senator Townsend.
Motion carried.

Senator Titus gave notice that on the next legislative day she would move to reconsider the vote whereby Assembly Bill No. 497 was this day passed.

GENERAL FILE AND THIRD READING

Assembly Bill No. 521.
Bill read third time.
Remarks by Senator Amodei.
Senator Amodei moved that Assembly Bill No. 521 be taken from the General File and placed on the General File for the next legislative day.
Motion carried.

Assembly Bill No. 529.
Bill read third time.
Roll call on Assembly Bill No. 529:
YEAS—21.
NAYS—None.

Assembly Bill No. 529 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 531.
Bill read third time.
Roll call on Assembly Bill No. 531:
YEAS—21.
NAYS—None.

Assembly Bill No. 531 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 533.
Bill read third time.
Roll call on Assembly Bill No. 533:
YEAS—21.
NAYS—None.

Assembly Bill No. 533 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Assembly Bill No. 535.
Bill read third time.
Roll call on Assembly Bill No. 535:
YEAS—21.
NAYS—None.

Assembly Bill No. 535 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 540.

Bill read third time.

Roll call on Assembly Bill No. 540:

YEAS—21.

NAYS—None.

Assembly Bill No. 540 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 549.

Bill read third time.

Roll call on Assembly Bill No. 549:

YEAS—20.

NAYS—Horsford.

Assembly Bill No. 549 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 554.

Bill read third time.

Roll call on Assembly Bill No. 554:

YEAS—21.

NAYS—None.

Assembly Bill No. 554 having received a constitutional majority, Mr. President declared it passed.

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 3:09 p.m.

SENATE IN SESSION

At 3:10 p.m.

President Krolicki presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Assembly Bills Nos. 558, 562, 569, 570, 576, 585, 592, 593; Assembly Joint Resolutions Nos. 7, 9, 10; Assembly Joint Resolution No. 16 of the 73rd Session be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Raggio.
Motion carried.

Senator Raggio moved to proceed to Unfinished Business and then to the Second Reading File.
Motion carried.

Senator Washington moved that Assembly Bill No. 148 be taken from the Secretary's desk and placed on the bottom of the General File on the second agenda.
Remarks by Senator Washington.
Motion carried.

Senator McGinness moved that Assembly Bill No. 209 be taken from the Secretary's desk and placed on the General File on the third agenda.
Remarks by Senator McGinness.
Motion carried.

Senator Washington moved that Assembly Bill No. 386 be taken from the Secretary's desk and placed on the General File for the next legislative day.
Remarks by Senator Washington.
Motion carried.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 142.
The following Assembly amendment was read.
Amendment No. 905.
"SUMMARY—Revises provisions governing certain forms used by hospitals in this State. (BDR 40-602)"
"AN ACT relating to public health; revising provisions concerning the billing form that a hospital in this State is required to use for all patients discharged from the hospital; and providing other matters properly relating thereto."
Legislative Counsel's Digest:
This bill eliminates references in existing law to the uniform billing form commonly referred to as the "UB-82," therefore requiring hospitals to use the billing form prescribed by the Director of the Department of Health and Human Services ~~[with the approval of a majority of the hospitals licensed in this State]~~ for all patients discharged. (NRS 449.485, 686A.315) *This bill further requires that all information must be complete, accurate and timely and submitted in an electronic form specified by the Department.*

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

Section 1. NRS 449.485 is hereby amended to read as follows:
449.485 1. Each hospital in this State shall use for all patients discharged ~~[the form commonly referred to as the "UB-82," or a different]~~ *a*

form prescribed by the Director ~~[with the approval of a majority of the hospitals licensed in this State,]~~ and shall include in the form all information required by the Department. *Any form prescribed by the Director must be a form that is commonly used nationwide by hospitals, if applicable, and comply with federal laws and regulations.*

2. The Department shall by regulation:

(a) Specify the information required to be included in the form for each patient; and

(b) Require each hospital to provide specified information from the form to the Department.

➥ *The information submitted must be complete, accurate and timely.*

3. Each insurance company or other payer shall accept the form as the bill for services provided by hospitals in this State.

4. Except as otherwise provided in subsection 5, each hospital ~~[with 100 or more beds]~~ *in this State* shall provide the information required pursuant to paragraph (b) of subsection 2 ~~[on magnetic tape or by other means]~~ *in an electronic form* specified by the Department . ~~[, or shall provide copies of the forms and pay the costs of entering the information manually from the copies.]~~

5. The Director may exempt a hospital from the requirements of subsection 4 if requiring the hospital to comply with the requirements would cause the hospital financial hardship.

Sec. 2. NRS 686A.315 is hereby amended to read as follows:

686A.315 1. If a hospital submits to an insurer the form ~~[commonly referred to as the "UB-82," the]~~ *prescribed by the Director of the Department of Health and Human Services pursuant to NRS 449.485, that* form must contain or be accompanied by a statement ~~[in substantially the following form:]~~ *that reads substantially as follows:*

> Any person who misrepresents or falsifies essential information requested on this form may, upon conviction, be subject to a fine and imprisonment under state or federal law, or both.

2. If a person who is licensed to practice one of the health professions regulated by title 54 of NRS submits to an insurer the form commonly referred to as the "HCFA-1500" for a patient who is not covered by any governmental program which offers insurance coverage for health care, the form must be accompanied by a statement ~~[in substantially the following form:]~~ *that reads substantially as follows:*

> Any person who knowingly files a statement of claim containing any misrepresentation or any false, incomplete or misleading information may be guilty of a criminal act punishable under state or federal law, or both, and may be subject to civil penalties.

3. The failure to provide any of the statements required by this section is not a defense in a prosecution for insurance fraud pursuant to NRS 686A.291.

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

Senator Washington moved that the Senate concur in the Assembly amendment to Senate Bill No. 142.

Remarks by Senator Washington.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 396.

The following Assembly amendment was read:

Amendment No. 698.

"SUMMARY—Revises provisions relating to subsurface installations. (BDR 40-1386)"

"AN ACT relating to subsurface installations; revising provisions relating to the notification required before beginning an excavation or demolition under certain circumstances; revising provisions governing certain complaints relating to the conduct of an excavation or demolition; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill amends the definition of "approximate location of a subsurface installation" to mean a strip of land not more than 24 inches on either side of the exterior surface of a subsurface installation, instead of 30 inches as defined by existing law. (NRS 455.082) *Section 7 of this bill delays the effective date of the change until July 1, 2008. Section 6 of this bill requires the Public Utilities Commission of Nevada to report to the Legislative Commission before the next regular session of the Legislature concerning the effects of the change.*

Existing law requires a person to give notice to the appropriate association of operators of an excavation or demolition at least 2 working days, but not more than 14 calendar days, before the excavation or demolition. (NRS 455.110) Section 3 of this bill extends the time frame to not more than 28 calendar days before the excavation or demolition.

Existing law authorizes certain persons to file a complaint to enjoin certain activities or practices of an operator or a person who is about to conduct an excavation or demolition and authorizes the court to issue a temporary restraining order under certain circumstances. (NRS 455.160) Section 4 of this bill adds the Regulatory Operations Staff of the Public Utilities Commission of Nevada, the Attorney General, an operator or a person conducting an excavation or demolition to the list of persons authorized to file a complaint. ~~[Section 4 also removes the authorization of a court to issue a temporary restraining order.]~~

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

Section 1. NRS 455.082 is hereby amended to read as follows:

455.082 "Approximate location of a subsurface installation" means a strip of land not more than ~~[30]~~ *24* inches on either side of the exterior

surface of a subsurface installation. The term does not include the depth of the subsurface installation.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 455.110 is hereby amended to read as follows:

455.110 1. Except as otherwise provided in subsection 2, a person shall not begin an excavation or demolition if the excavation or demolition is to be conducted in an area that is known or reasonably should be known to contain a subsurface installation, except a subsurface installation owned or operated by the person conducting the excavation or demolition, unless he:

(a) Notifies the appropriate association for operators pursuant to NRS 455.120, at least 2 working days but not more than ~~[14]~~ *28* calendar days before excavation or demolition is scheduled to commence. The notification may be written or provided by telephone and must state the name, address and telephone number of the person who is responsible for the excavation or demolition, the starting date of the excavation or demolition, anticipated duration and type of excavation or demolition to be conducted, the specific area of the excavation or demolition and whether explosives are to be used.

(b) Cooperates with the operator in locating and identifying its subsurface installation by:

(1) Meeting with its representative as requested; and

(2) Making a reasonable effort that is consistent with the practice in the industry to mark with white paint, flags, stakes, whiskers or another method that is agreed to by the operator and the person who is responsible for the excavation or demolition, the proposed area of the excavation or demolition.

2. A person responsible for emergency excavation or demolition is not required to comply with the provisions of subsection 1 if there is a substantial likelihood that loss of life, health or property will result before the provisions of subsection 1 can be fully complied with. The person shall notify the operator of the action he has taken as soon as practicable.

Sec. 4. NRS 455.160 is hereby amended to read as follows:

455.160 1. ~~[A commissioner]~~ *The Regulatory Operations Staff* of the Public Utilities Commission of Nevada *, the Attorney General, an operator, a person conducting an excavation or demolition,* or the district attorney of a county or the city attorney of a city in which there is an excavation or demolition or a proposed excavation or demolition which he believes may cause death, serious physical harm or serious property damage may file a complaint in the district court for the county seeking to enjoin the activity or practice of an operator or a person who is responsible for the excavation or demolition.

2. Upon the filing of a complaint pursuant to subsection 1, the court may issue a temporary restraining order before holding an evidentiary hearing. ~~[A temporary restraining order may be issued for no longer than 5 days.]~~

Sec. 5. NRS 455.170 is hereby amended to read as follows:

455.170 1. An action for the enforcement of a civil penalty pursuant to this section may be brought before the Public Utilities Commission of Nevada by the Attorney General, a district attorney, a city attorney, ~~[legal counsel for]~~ *the Regulatory Operations Staff of* the Public Utilities Commission of Nevada, the governmental agency that issued the permit to conduct an excavation or demolition, an operator or a person conducting an excavation or demolition.

2. Any person who willfully or repeatedly violates a provision of NRS 455.080 to 455.180, inclusive, is liable for a civil penalty:

(a) Not to exceed $1,000 per day for each violation; and

(b) Not to exceed $100,000 for any related series of violations within a calendar year.

3. Any person who negligently violates any such provision is liable for a civil penalty:

(a) Not to exceed $200 per day for each violation; and

(b) Not to exceed $1,000 for any related series of violations within a calendar year.

4. The amount of any civil penalty imposed pursuant to this section and the propriety of any settlement or compromise concerning a penalty must be determined by the Public Utilities Commission of Nevada upon receipt of a complaint by the Attorney General, ~~[an employee]~~ *the Regulatory Operations Staff* of the Public Utilities Commission of Nevada *,* ~~[who is engaged in regulatory operations,]~~ a district attorney, a city attorney, the agency that issued the permit to excavate or the operator or the person responsible for the excavation or demolition.

5. In determining the amount of the penalty or the amount agreed upon in a settlement or compromise, the Public Utilities Commission of Nevada shall consider:

(a) The gravity of the violation;

(b) The good faith of the person charged with the violation in attempting to comply with the provisions of NRS 455.080 to 455.180, inclusive, before and after notification of a violation; and

(c) Any history of previous violations of those provisions by the person charged with the violation.

6. A civil penalty recovered pursuant to this section must first be paid to reimburse the person who initiated the action for any cost incurred in prosecuting the matter.

7. Any person aggrieved by a determination of the Public Utilities Commission of Nevada pursuant to this section may seek judicial review of the determination in the manner provided by NRS 703.373.

Sec. 6. *The Public Utilities Commission of Nevada shall, on or before December 31, 2008, submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission concerning the effects of the revision of the definition of "approximate location of a subsurface installation" set forth in NRS 455.082, as amended by section 1 of*

this act. The report must include, without limitation, the number of occurrences of contact with, exposure of or damage to a subsurface installation resulting from any excavation or demolition in this State on and after July 1, 2008, as compared to similar occurrences before July 1, 2008.

Sec. 7. 1. This section and sections 2 to 6, inclusive, of this act become effective on October 1, 2007.

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

Senator Washington moved that the Senate concur in the Assembly amendment to Senate Bill No. 396.

Remarks by Senator Washington.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 244.

The following Assembly amendment was read:

Amendment No. 699.

"SUMMARY—Revises provisions governing the collection of data relating to the tracking of waiting times for emergency medical services at hospitals. (BDR 40-94)"

"AN ACT relating to emergency medical services; requiring the State Board of Health to develop a system of collecting data relating to waiting times at hospitals; requiring hospitals and providers of emergency medical services in certain counties to participate in the collection of data; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that hospitals and providers of emergency medical services are required to transfer a person who arrives at the hospital by an ambulance, air ambulance or vehicle of a fire-fighting agency to an appropriate place in the hospital to receive emergency services and care within 30 minutes after the time at which the person arrives at the hospital. Existing law also requires the Health Division of the Department of Health and Human Services to adopt regulations concerning the manner in which hospitals and providers of emergency medical care shall track the time elapsed from when a person arrives at the hospital to the time the person is transferred to an appropriate place to receive care. (NRS 450B.790) Senate Bill No. 458 of the 2005 Legislative Session enacted the statutory requirement for tracking wait times and also required the Health Division to conduct a study to identify both the causes of excessive waiting times and any corrective actions that might eliminate excessive waiting times. The provisions requiring the study expired by limitation on December 31, 2006. (Chapter 382, Statutes of Nevada 2005, pp. 1475-77)

Section 1 of this bill requires the State Board of Health to develop a system of collecting data concerning the waiting times. Section 1 also requires hospitals and providers of emergency medical services in each county whose population is 400,000 or more to collect certain data relating to waiting

times. In counties whose population is 100,000 or more but less than 400,000, the Board may require the collection of data if there are excessive waiting times at one or more hospitals in the county. Section 2 of this bill eliminates the requirement that the Health Division adopt regulations relating to the tracking of waiting times.

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

Section 1. Chapter 450B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board of Health shall collect data, in accordance with the system that is developed by the Board pursuant to subsection 5, concerning the waiting times for the provision of emergency services and care to each person who is in need of such services and care and who is transported to a hospital by a provider of emergency medical services.

2. Each hospital and each provider of emergency medical services in a county whose population is 400,000 or more shall participate in the collection of data pursuant to this section by collecting data, in accordance with the system that is developed by the State Board of Health pursuant to subsection 5, concerning the waiting times for the provision of emergency services and care to each person who is in need of such services and care and who is transported to a hospital by a provider of emergency medical services.

3. Except as otherwise provided in subsection 4, the hospitals and the providers of emergency medical services in a county whose population is less than 400,000 are not required to participate in the collection of data pursuant to this section unless the county health officer, each hospital and each provider of emergency medical services in the county agree in writing that the county will participate in the collection of data. The county health officer shall submit the written agreement to the State Board of Health.

4. If the State Board of Health determines, in a county whose population is 100,000 or more but less than 400,000, that there are excessive waiting times at one or more hospitals in the county for the provision of emergency services and care to persons who are in need of such services and care and who have been transported to the hospital by a provider of emergency medical services, the State Board of Health may require the county to implement a system of collecting data pursuant to subsection 5 concerning the extent of waiting times and the circumstances surrounding such waiting times.

5. For the purpose of collecting data pursuant to this section, the State Board of Health shall develop a system of collecting data concerning the waiting times of persons for the provision of emergency services and care at a hospital and the surrounding circumstances for such waiting times each time a person is transported to a hospital by a provider of emergency medical services. The system must include, without limitation, an electronic method of recording and collecting the following information:

(a) The time at which a person arrives at the hospital, which is the time that the person is presented to the emergency room of the hospital;

(b) The time at which the person is transferred to an appropriate place in the hospital to receive emergency services and care, which is the time that the person is physically present in the appropriate place and the staff of the emergency room of the hospital have received a report concerning the transfer of the person;

(c) If a person is not transferred to an appropriate place in the hospital to receive emergency services and care within 30 minutes after arriving at the hospital, information detailing the reason for such delay, which may be selected from a predetermined list of possible reasons that are available for selection in the electronic system;

(d) A unique identifier that is assigned to each transfer of a person to a hospital by a provider of emergency medical services which allows the transfer to be identified and reviewed; and

(e) The names of the personnel of the provider of emergency medical services who transported the person to the hospital and of the personnel of the hospital who are responsible for the care of the person after the person arrives at the hospital.

6. The State Board of Health shall ensure that:

(a) The data collected pursuant to subsection 5 is reported to the Health Division on a quarterly basis;

(b) The data collected pursuant to subsection 5 is available to any person or entity participating in the collection of data pursuant to this section; and

(c) The system of collecting data developed pursuant to subsection 5 and all other aspects of the collection comply with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

7. The State Board of Health shall appoint for each county in which hospitals and providers of emergency medical services are participating in the collection of data pursuant to this section an advisory committee consisting of the health officer of the county, a representative of each hospital in the county and a representative of each provider of emergency medical services in the county. Each member of the advisory committee serves without compensation and is not entitled to receive a per diem allowance or travel expenses for his service on the advisory committee. Each advisory committee shall:

(a) Meet not less than once each calendar quarter;

(b) Review the data that is collected for the county and submitted to the State Board of Health concerning the waiting times for the provision of emergency services and care, the manner in which such data was collected and any circumstances surrounding such waiting times;

~~[(b)]~~ (c) Review each incident in which a person was transferred to an appropriate place in a hospital to receive emergency services and care more than 30 minutes after arriving at the hospital; and

~~[(c)]~~ (d) Submit a report of its findings to the State Board of Health.

8. The State Board of Health may delegate its duties set forth in this section to:

(a) The district board of health in a county whose population is 400,000 or more.

(b) The county or district board of health in a county whose population is less than 400,000.

9. The State Board of Health or any county or district board of health that is performing the duties of the State Board of Health pursuant to subsection 8 shall submit a quarterly report to the Legislative Committee on Health Care, which must include a written compilation of the data collected pursuant to this section.

10. The State Board of Health may require each hospital and provider of emergency medical services located in a county that participates in the collection of data pursuant to this section to share in the expense of purchasing hardware ~~[and]~~ , software , equipment and other resources necessary to carry out the collection of data pursuant to this section.

11. The State Board of Health shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations prescribing the duties and responsibilities of each:

(a) County or district board of health that is performing the duties of the State Board of Health pursuant to subsection 8;

(b) Hospital located in a county that participates in the collection of data pursuant to this section; and

(c) Provider of emergency medical services located in a county whose population is less than 400,000 that participates in the collection of data pursuant to this section.

12. The district board of health in each county whose population is 400,000 or more shall adopt regulations consistent with subsection 11 for providers of emergency medical services located in the county to carry out the provisions of this section.

13. The State Board of Health may, in consultation with each hospital and provider of emergency medical services located in a county that participates in the collection of data pursuant to this section, submit a written request to the Director of the Legislative Counsel Bureau for transmission to a regular session of the Legislature for the repeal of this section. Such a written request must include the justifications and reasons for requesting the termination of the collection of data pursuant to this section.

~~[12.]~~ 14. As used in this section:

(a) "Emergency services and care" has the meaning ascribed to it in NRS 439B.410.

(b) "Hospital" has the meaning ascribed to it in NRS 449.012.

(c) "Provider of emergency medical services" means each operator of an ambulance and each fire-fighting agency which has a permit to operate pursuant to this chapter and which provides transportation for persons in need of emergency services and care to hospitals.

Sec. 2. NRS 450B.790 is hereby amended to read as follows:

450B.790 1. Each hospital in this State which receives a person in need of emergency services and care who has been transported to the hospital by ~~[an ambulance, air ambulance or vehicle of a fire-fighting agency that has a permit to operate pursuant to this chapter]~~ *a provider of emergency medical services* shall ensure that the person is transferred to a bed, chair, gurney or other appropriate place in the hospital to receive emergency services and care as soon as practicable, but not later than 30 minutes after the time at which the person arrives at the hospital.

2. ~~[The Health Division shall adopt regulations concerning the manner in which a hospital and an attendant responsible for the care of a person in need of emergency services and care during transport to the hospital shall determine and track the time at which a person arrives at a hospital and the time at which the person is transferred to an appropriate place in the hospital to receive emergency services and care for the purposes of this section. The regulations must provide that:~~

~~(a) The time at which a person arrives at a hospital is the time at which he is presented to the emergency room of the hospital; and~~

~~(b) The time at which the person is transferred to an appropriate place in the hospital to receive emergency services and care is the time at which the person is physically in that place and the staff of the emergency room of the hospital have received a report concerning the person.~~

~~3.]~~ This section does not create a duty of care and is not a ground for civil or criminal liability.

~~[4.]~~ *3.* As used in this section:

(a) ″Emergency services and care″ has the meaning ascribed to it in NRS 439B.410.

(b) ″Hospital″ has the meaning ascribed to it in NRS 449.012.

(c) "Provider of emergency medical services" means each operator of an ambulance and each fire-fighting agency which has a permit to operate pursuant to this chapter and which provides transportation for persons in need of emergency services and care to hospitals.

Sec. 3. This act becomes effective on July 1, 2007.

Senator Washington moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 244.

Remarks by Senator Washington.

Motion carried.

Bill ordered transmitted to the Assembly.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were referred Assembly Bills Nos. 580, 612, 616, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

WILLIAM J. RAGGIO, *Chair*

Mr. President:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 226, 596, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARK E. AMODEI, *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that Assembly Bills Nos. 148, 226, 296, 460, 580, 596, 612, 616 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 139.

Bill read second time.

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

Amendment No. 804.

"SUMMARY—Revises provisions relating to local governmental administration. (BDR 20-325)"

"AN ACT relating to local governmental administration; authorizing boards of county commissioners to apply for and accept certain rights over federal lands and to indemnify the Federal Government in connection with *such* rights *;* ~~[granted over those federal lands;]~~ providing for the disposition of excess payments made to a county recorder; revising provisions relating to the appointment and oath of deputy sheriffs; exempting the sheriff of ~~[a county whose population is 400,000 or more]~~ *certain larger counties* from the requirement to attend in person or by deputy all sessions in district court in that county; *authorizing the judge of each district court and the justice of the peace in each justice court in certain larger counties to appoint a deputy marshal for the court;* authorizing boards of county commissioners to delegate authority to approve certain claims for refunds of charges *,* ~~[or]~~ fees *or deposits* paid to county departments of aviation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes boards of county commissioners to apply for and accept grants of rights-of-way, permits, leases and patents over federal lands within the National Forest System pursuant to certain federal laws. (NRS 244.277) Section 1 of this bill adds the Southern Nevada Public Lands Management Act of 1998, Public Law 105-263, to the list of federal laws concerning lands with respect to which boards of county commissioners may apply for and accept such land rights. Section 1 of this bill also authorizes boards of county commissioners to indemnify the United States in connection with such land rights.

Under existing law, a county recorder collects various fees. (NRS 247.305) Section 2 of this bill provides that if a fee collected by a county recorder exceeds by $5 or less the amount required by law to be paid, the county

recorder is required to deposit the overpayment with the county treasurer for credit to the county general fund. If the overpayment is more than $5, the county recorder is required to refund the entire amount of the overpayment.

Existing law authorizes a sheriff to appoint, in writing, deputy sheriffs and requires each deputy sheriff to take an oath to discharge his duties. (NRS 248.040) Section 3 of this bill changes the office where the oath and written appointment of a deputy sheriff must be officially retained from the county auditor to the county recorder. Under existing law, the oaths and written appointments of deputies of many county elected officers are recorded with the county recorder or their respective counties. (NRS 246.030, 247.040, 249.060, 250.060, 252.070, 253.025, 258.060)

Existing law requires each county sheriff to attend in person or by deputy all sessions of the district court in that county. (NRS 248.100) Section 4 of this bill exempts the sheriff of a county whose population is 400,000 or more (currently Clark County) from that requirement.

Existing law authorizes the judge of each district court to appoint a bailiff for the court. (NRS 3.310) Section 5 of this bill authorizes the judge of each district court in a county whose population is 400,000 or more (currently Clark County) to appoint a deputy marshal for the court and confers on those deputy marshals the duties and responsibilities of the bailiffs. Section 5 also requires each deputy marshal to be certified as a category I peace officer within 18 months after appointment. Section 6 of this bill authorizes the appointment of a deputy marshal for each justice court in a county whose population is 400,000 or more (currently Clark County) and also requires such deputy marshals to be certified as category I peace officers within 18 months after appointment. (Chapter 4 of NRS) Section 11 of this bill provides that persons appointed before July 1, 2007, to serve as bailiffs of a district court or justice court in a county whose population is 400,000 or more (currently Clark County) are deemed to be deputy marshals if such persons are certified as category II peace officers on or before January 1, 2009.

Existing law authorizes boards of county commissioners to delegate to the county manager, the county administrator or, in counties without a manager or administrator, any other county employee the authority to approve certain claims for refunds of registration fees or deposits paid to the county department of parks and recreation. (NRS 354.240) Section ~~[5]~~ *10* of this bill authorizes boards of county commissioners to delegate to the same types of county officials or employees the authority to approve certain claims for refunds of ~~[registration]~~ *charges,* fees or deposits paid to the county department of aviation.

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

Section 1. NRS 244.277 is hereby amended to read as follows:

244.277 The board of county commissioners may apply for and accept:

1. Grants of rights-of-way, permits, leases and patents and subsequent renewals of grants of rights-of-way, permits, leases and patents over, upon, under or through any land or interest in land owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management and by the Secretary of Agriculture with respect to lands within the National Forest System, pursuant to Title V of the Federal Land Policy and Management Act of 1976, 43 U.S.C. §§ 1761-1771, ~~[and]~~ the Recreation and Public Purposes Act, 43 U.S.C. §§ 869-869-4 ~~[.]~~ *, and the Southern Nevada Public Land Management Act of 1998, Public Law 105-263;* and

2. Special use permits for parks, forests and public property owned by the United States and administered by the Secretary of Agriculture, through the United States Forest Service, pursuant to Title 16 of the United States Code and 36 C.F.R. Part 251,

➥ and in connection therewith may *indemnify the United States and may* comply with federal regulations and stipulations consistent with the federal statutes and regulations set forth in this section or any other applicable federal statute or regulation.

Sec. 2. NRS 247.305 is hereby amended to read as follows:

247.305 1. If another statute specifies the fee to be charged for a service, county recorders shall charge and collect only the fee specified. Otherwise, unless prohibited by NRS 375.060, county recorders shall charge and collect the following fees:

For recording any document, for the first page	$10
For each additional page	1
For recording each portion of a document which must be separately indexed, after the first indexing	3
For copying any record, for each page	1
For certifying, including certificate and seal	4
For a certified copy of a certificate of marriage	10
For a certified abstract of a certificate of marriage	10

2. Except as otherwise provided in this subsection and NRS 375.060, a county recorder may charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee not to exceed $3 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder may not charge the additional fee authorized in this subsection for recording the originally signed copy of a certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him pursuant to this subsection to the county treasurer for credit to the account established pursuant to NRS 247.306.

3. Except as otherwise provided in this subsection and NRS 375.060, a county recorder shall charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee of $1 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder shall not charge the

additional fee authorized in this subsection for recording the originally signed copy of a certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him pursuant to this subsection to the county treasurer. On or before the 15th day of each month, the county treasurer shall remit the money received by him pursuant to this subsection to the State Treasurer for credit to the Account to Assist Persons Formerly in Foster Care established pursuant to NRS 432.017.

4. Except as otherwise provided in this subsection, subsection 5 or by specific statute, a county recorder shall charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee of $25 for recording any document that does not meet the standards set forth in subsection 3 of NRS 247.110. A county recorder shall not charge the additional fee authorized by this subsection for recording a document that is exempt from the provisions of subsection 3 of NRS 247.110.

5. Except as otherwise provided in subsection 6, a county recorder shall not charge or collect any fees for any of the services specified in this section when rendered by him to:

(a) The county in which his office is located.

(b) The State of Nevada or any city or town within the county in which his office is located, if the document being recorded:

(1) Conveys to the State, or to that city or town, an interest in land;

(2) Is a mortgage or deed of trust upon lands within the county which names the State or that city or town as beneficiary;

(3) Imposes a lien in favor of the State or that city or town; or

(4) Is a notice of the pendency of an action by the State or that city or town.

6. A county recorder shall charge and collect the fees specified in this section for copying any document at the request of the State of Nevada, and any city or town within the county. For copying, and for his certificate and seal upon the copy, the county recorder shall charge the regular fee.

7. For the purposes of this section, ″State of Nevada,″ ″county,″ ″city″ and ″town″ include any department or agency thereof and any officer thereof in his official capacity.

8. *If the amount of money collected by a county recorder for a fee pursuant to this section:*

(a) Exceeds by $5 or less the amount required by law to be paid, the county recorder shall deposit the excess payment with the county treasurer for credit to the county general fund.

(b) Exceeds by more than $5 the amount required by law to be paid, the county recorder shall refund the entire amount of the excess payment.

9. Except as otherwise provided in subsection 2 *,* ~~[or]~~ 3 *or 8* or by an ordinance adopted pursuant to the provisions of NRS 244.207, county recorders shall, on or before the fifth working day of each month, account for

and pay to the county treasurer all such fees collected during the preceding month.

Sec. 3. NRS 248.040 is hereby amended to read as follows:

248.040 1. Except as provided in NRS 248.045, each sheriff may:

(a) Appoint, in writing signed by him, one or more deputies, who may perform all the duties devolving on the sheriff of the county and such other duties as the sheriff may from time to time direct. The appointment of a deputy sheriff must not be construed to confer upon that deputy policymaking authority for the office of the sheriff or the county by which the deputy sheriff is employed.

(b) Except as otherwise provided in this paragraph, only remove a deputy who has completed a probationary period of 12 months for cause. A deputy who functions as the head of a department or an administrative employee or who has not completed the probationary period may be removed at the sheriff's pleasure.

2. No deputy sheriff is qualified to act as such unless he has taken an oath to discharge the duties of the office faithfully and impartially. The oath *, together with the written appointment,* must be ~~[certified on the back of his appointment and filed]~~ *recorded* in the office of the *recorder of the* county ~~[auditor.]~~ *within which the sheriff legally holds and exercises his office. Revocations of such appointments must be recorded as provided in this subsection. From the time of the recording of the appointments or revocations therein, persons shall be deemed to have notice of the appointments or revocations.*

3. The sheriff may require of his deputies such bonds as to him seem proper.

Sec. 4. NRS 248.100 is hereby amended to read as follows:

248.100 1. The sheriff shall:

(a) ~~[Attend]~~ *Except in ~~[counties]~~ a county whose population is 400,000 or more, attend* in person, or by deputy, all sessions of the district court in his county.

(b) Obey all the lawful orders and directions of the ~~[same.]~~ *district court in his county.*

(c) Except as otherwise provided in subsection 2, execute the process, writs or warrants of courts of justice, judicial officers and coroners, when delivered to him for that purpose.

2. The sheriff may authorize the constable of the appropriate township to receive and execute the process, writs or warrants of courts of justice, judicial officers and coroners.

Sec. 5. NRS 3.310 is hereby amended to read as follows:

3.310 1. ~~[The]~~ *Except as otherwise provided in this subsection, the* judge of each district court may appoint a bailiff for the court in counties polling 4,500 or more votes. In counties polling less than 4,500 votes, the judge may appoint a bailiff with the concurrence of the sheriff. *Subject to the provisions of subsections 2, 4 and 10, in a county whose population is*

400,000 or more, the judge of each district court may appoint a deputy marshal for the court instead of a bailiff. In ~~[either]~~ *each* case, the bailiff *or deputy marshal* serves at the pleasure of the judge he serves.

2. In all judicial districts where there is more than one judge, there may be a number of bailiffs *or deputy marshals* at least equal to the number of judges, and in any judicial district where a circuit judge has presided for more than 50 percent of the regular judicial days of the prior calendar year, there may be one additional bailiff ~~[,]~~ *or deputy marshal,* each bailiff *or deputy marshal* to be appointed by the joint action of the judges. If the judges cannot agree upon the appointment of any bailiff *or deputy marshal* within 30 days after a vacancy occurs in the office of bailiff ~~[,]~~ *or deputy marshal,* then the appointment must be made by a majority of the board of county commissioners.

3. Each bailiff *or deputy marshal* shall:

(a) Preserve order in the court.

(b) Attend upon the jury.

(c) Open and close court.

(d) Perform such other duties as may be required of him by the judge of the court.

4. The bailiff *or deputy marshal* must be a qualified elector of the county and shall give a bond, to be approved by the district judge, in the sum of $2,000, conditioned for the faithful performance of his duty.

5. The compensation of each bailiff *or deputy marshal* for his services must be fixed by the board of county commissioners of the county and his salary paid by the county wherein he is appointed, the same as the salaries of other county officers are paid.

6. The board of county commissioners of the respective counties shall allow the salary stated in subsection 5 as other salaries are allowed to county officers, and the county auditor shall draw his warrant for it, and the county treasurer shall pay it.

7. The provisions of this section do not:

(a) Authorize the bailiff *or deputy marshal* to serve any civil or criminal process, except such orders of the court which are specially directed by the court or the presiding judge thereof to him for service.

(b) ~~[Relieve]~~ *Except in a county whose population is 400,000 or more, relieve* the sheriff of any duty required of him by law to maintain order in the courtroom.

8. If a deputy marshal is appointed for a court pursuant to subsection 1, each session of the court must be attended by the deputy marshal.

9. For good cause shown, a deputy marshal appointed for a court pursuant to subsection 1 may be assigned temporarily to assist other judicial departments or assist with court administration as needed.

10. A person appointed to be a deputy marshal for a court pursuant to subsection 1 must be certified by the Peace Officers' Standards and Training

Commission as a category I peace officer not later than 18 months after appointment.

Sec. 6. Chapter 4 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Subject to the provisions of subsections 2, 4 and 10, in a county whose population is 400,000 or more, the justice of the peace for each justice court may appoint a deputy marshal for the court instead of a bailiff. The deputy marshal serves at the pleasure of the justice of the peace that he serves.

2. In all townships where there is more than one justice of the peace, there may be a number of deputy marshals at least equal to the number of justices of the peace. If the justices of the peace cannot agree upon the appointment of any deputy marshal within 30 days after a vacancy occurs in the office of deputy marshal, the appointment must be made by a majority of the board of county commissioners.

3. Each deputy marshal shall:

(a) Preserve order in the court.

(b) Open and close court.

(c) Perform other such duties as may be required of him by the justice of the peace of the court.

4. The deputy marshal must be a qualified elector of the county and shall give bond, to be approved by the justice of the peace, in the sum of $2,000, conditioned for the faithful performance of his duty.

5. The compensation of each deputy marshal for his services must be fixed by the board of county commissioners of the county and his salary paid by the county wherein he is appointed, the same as the salaries of other county officers are paid.

6. The board of county commissioners of the respective counties shall allow the salary stated in subsection 5 as other salaries are allowed to county officers, and the county auditor shall draw his warrant for it, and the county treasurer shall pay it.

7. The provisions of this section do not authorize the deputy marshal to serve any civil or criminal process, except such orders of the court which are specially directed by the court or the presiding justice of the peace thereof to him for service.

8. If a deputy marshal is appointed for a court pursuant to subsection 1, each session of the court must be attended by the deputy marshal.

9. For good cause shown, a deputy marshal appointed for a court pursuant to subsection 1 may be assigned temporarily to assist other justice courts or assist with court administration as needed.

10. A person appointed to be a deputy marshal pursuant to subsection 1 must be certified by the Peace Officers' Standards and Training Commission as a category I peace officer not later than 18 months after appointment.

Sec. 7. NRS 18.005 is hereby amended to read as follows:

18.005 For the purposes of NRS 18.010 to 18.150, inclusive, the term ″costs″ means:

1. Clerks′ fees.

2. Reporters′ fees for depositions, including a reporter′s fee for one copy of each deposition.

3. Jurors′ fees and expenses, together with reasonable compensation of an officer appointed to act in accordance with NRS 16.120.

4. Fees for witnesses at trial, pretrial hearings and deposing witnesses, unless the court finds that the witness was called at the instance of the prevailing party without reason or necessity.

5. Reasonable fees of not more than five expert witnesses in an amount of not more than $1,500 for each witness, unless the court allows a larger fee after determining that the circumstances surrounding the expert′s testimony were of such necessity as to require the larger fee.

6. Reasonable fees of necessary interpreters.

7. The fee of any sheriff or licensed process server for the delivery or service of any summons or subpoena used in the action, unless the court determines that the service was not necessary.

8. Compensation for the official reporter or reporter pro tempore.

9. Reasonable costs for any bond or undertaking required as part of the action.

10. Fees of a court bailiff *or deputy marshal* who was required to work overtime.

11. Reasonable costs for telecopies.

12. Reasonable costs for photocopies.

13. Reasonable costs for long distance telephone calls.

14. Reasonable costs for postage.

15. Reasonable costs for travel and lodging incurred taking depositions and conducting discovery.

16. Fees charged pursuant to NRS 19.0335.

17. Any other reasonable and necessary expense incurred in connection with the action, including reasonable and necessary expenses for computerized services for legal research.

Sec. 8. *NRS 289.150 is hereby amended to read as follows:*

289.150 The following persons have the powers of a peace officer:

1. Sheriffs of counties and of metropolitan police departments, their deputies and correctional officers.

2. Marshals, policemen and correctional officers of cities and towns.

3. The bailiff of the Supreme Court.

4. The bailiffs *and deputy marshals* of the district courts, Justice Courts and municipal courts whose duties require them to carry weapons and make arrests.

5. Constables and their deputies whose official duties require them to carry weapons and make arrests.

Sec. 9. *NRS 289.550 is hereby amended to read as follows:*

289.550 1. Except as otherwise provided in subsection 2, *NRS 3.310 and section 6 of this act,* a person upon whom some or all of the powers of a

peace officer are conferred pursuant to NRS 289.150 to 289.360, inclusive, must be certified by the Commission within 1 year after the date on which the person commences employment as a peace officer unless the Commission, for good cause shown, grants in writing an extension of time, which must not exceed 6 months, by which the person must become certified. A person who fails to become certified within the required time shall not exercise any of the powers of a peace officer after the time for becoming certified has expired.

2. The following persons are not required to be certified by the Commission:

(a) The Chief Parole and Probation Officer;

(b) The Director of the Department of Corrections;

(c) The State Fire Marshal;

(d) The Director of the Department of Public Safety, the deputy directors of the Department, the chiefs of the divisions of the Department other than the Investigation Division and the Nevada Highway Patrol, and the members of the State Disaster Identification Team of the Division of Emergency Management of the Department;

(e) The Commissioner of Insurance and his chief deputy;

(f) Railroad policemen; and

(g) California correctional officers.

~~[Sec. 5.]~~ *Sec. 10.* NRS 354.240 is hereby amended to read as follows:

354.240 1. If a board of county commissioners determines by competent evidence that money has been paid into the treasury of the county under any of the circumstances mentioned in NRS 354.220, the board of county commissioners, by its unanimous resolution, may direct the county treasurer to refund to the applicant the amount of money paid into the county treasury in excess of the amount legally payable.

2. In the case of a claim for a refund of property tax, if the board has unanimously found that the applicant is entitled to a refund, it shall direct the county treasurer to refund to the applicant the amount claimed if the claim is made within 3 years after the tax was due. The county may withhold amounts refunded from its subsequent apportionments of revenues from property tax to the other taxing units in the county which levied a tax represented in the combined tax rate.

3. If the county treasurer determines by competent evidence that money in the amount of $500 or less has been paid into the county treasury under any of the circumstances listed in NRS 354.220, he may, upon receiving the written approval of the district attorney, refund to the applicant the amount paid which is in excess of the amount legally payable.

4. In the case of a claim for a refund of property tax which has been authorized and approved in the manner provided in subsection 3, the county treasurer shall make a refund to the applicant in the amount claimed if the claim is made within 3 years after the tax was due. The county may withhold amounts refunded from its subsequent apportionments of revenues from

property tax to the other taxing units in the county which levied a tax represented in the combined tax rate.

5. A board of county commissioners may, in the case of a claim for a refund of a registration fee or deposit paid to the county department of parks and recreation, delegate the authority to approve all such claims of less than $1,000, to:

(a) The county manager or his designee;

(b) The county administrator or his designee; or

(c) In a county that has neither a county manager nor a county administrator, any other county employee.

6. *A board of county commissioners may, in the case of a claim for a refund of ~~[a registration fee or deposit]~~ any charges, fees or deposits paid to the county department of aviation, delegate the authority to approve all such claims of less than $100, to:*

(a) The county manager or his designee;

(b) The county administrator or his designee; or

(c) In a county that has neither a county manager nor a county administrator, any other county employee.

7. A county treasurer, upon receiving written approval of a claim pursuant to subsection 5 ~~[,]~~ *or 6,* may refund to the applicant the amount of the refund due.

~~[7.]~~ *8.* At the end of each month the county treasurer shall provide to the board of county commissioners a list of all refunds made by him during that month. The list must contain the name of each taxpayer or other person to whom a refund was made and the amount of the refund. The county treasurer shall maintain a copy of the list and make it available for public inspection.

Sec. 11. Notwithstanding the provisions of NRS 3.310, as amended by section 5 of this act, and section 6 of this act, a person appointed before July 1, 2007, to serve as the bailiff for a district court or justice court in a county whose population is 400,000 or more:

1. Must be certified by the Peace Officers' Standards and Training Commission as a category II peace officer on or before January 1, 2009; and

2. On and after July 1, 2007, shall be deemed to be a deputy marshal with the duties thereof pursuant to NRS 3.310, as amended by section 5 of this act, or section 6 of this act, unless the person does not comply with the requirement set forth in subsection 1 by January 1, 2009.

~~[Sec. 6.]~~ *Sec. 12. 1.* This ~~[act becomes]~~ *section and section 11 of this act become effective upon passage and approval.*

2. Sections 1 to 10, inclusive, of this act become effective on July 1, 2007.

Senator Hardy moved the adoption of the amendment.

Remarks by Senator Hardy.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 193.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 755.

"SUMMARY—Makes various changes concerning pleas, defenses and verdicts in criminal actions.
(BDR 14-152)"

"AN ACT relating to crimes; establishing the requirements for determining whether a person is insane for purposes of the plea of not guilty by reason of insanity and for the insanity defense; authorizing a plea and verdict of guilty but mentally ill under certain circumstances; *providing for annual evaluations and the discharge or conditional release of a person who is committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services after an acquittal by reason of insanity in certain circumstances;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

In 1995, the Legislature enacted Senate Bill No. 314 which abolished the insanity defense in criminal cases and instead authorized a plea of guilty but mentally ill. In 2001, the Nevada Supreme Court interpreted the provisions of Senate Bill No. 314 and ruled that the federal and state constitutions require the State to provide to criminal defendants the option of raising an insanity defense for crimes that require an element of intent. (*Finger v. State*, 117 Nev. 548 (2001)) Based on this reasoning and because the Court did not believe that the Legislature would wish to preserve the plea of guilty but mentally ill under these circumstances, the Court struck Senate Bill No. 314 in its entirety and reinstated the insanity defense as it existed before Senate Bill No. 314. (*Finger*, 117 Nev. at 575) In response to *Finger*, the Legislature enacted legislation in 2003, Assembly Bill No. 156, which statutorily abolished the plea of guilty but mentally ill and reinstated the insanity defense.

Section 4 of this bill reinstates the plea of guilty but mentally ill as an additional plea. Section 4 also provides that a defendant who pleads guilty but mentally ill bears the burden of establishing his mental illness by a preponderance of the evidence and that generally such a defendant is subject to the same penalties and procedures as a defendant who pleads guilty. (NRS 174.035)

Section 10 of this bill authorizes the verdict of guilty but mentally ill. Specifically, section 10 authorizes a judge or jury to find a defendant guilty but mentally ill if the judge or jury finds that the defendant: (1) is guilty of the offense; (2) has established that he was mentally ill at the time the offense was committed; and (3) has not established that he was insane for purposes of the defense of insanity. Generally, a defendant who is found guilty but mentally ill is subject to the same penalties and procedures as a defendant who is found guilty.

Section 17 of this bill provides the types of sentences a court may impose upon a defendant who pleads or is found guilty but mentally ill. Regardless of whether a defendant is mentally ill at the time of sentencing, the court is required to impose any sentence available to the court for a defendant who pleads or is found guilty of the same offense. However, if the defendant is mentally ill at the time of sentencing and the sentence includes a term of confinement, the court is also required, under certain circumstances, to direct the Department of Corrections to provide to the defendant such treatment as is medically indicated for his mental illness during his confinement. This bill contains many of the same provisions that were included in Senate Bill No. 314 of the 1995 Legislative Session, as well as many new sections that were included to provide for the plea and verdict of guilty but mentally ill.

Under existing case law in Nevada, a defendant in a criminal case who asserts the insanity defense must prove that he was in a delusional state at the time of the alleged crime and due to that delusional state, he either: (1) did not understand the nature or capacity of his act; or (2) did not appreciate that his act was wrong, meaning that the act is not authorized by law. (*Finger*, 117 Nev. at 576) This standard for establishing insanity is commonly referred to as the ″M′Naghten Rule.″ The Nevada Supreme Court has recognized that the Legislature may determine that legal insanity be proven by the defendant by any one of the established standards, including by the M′Naghten Rule. (*Finger*, 117 Nev. at 575) Section 4 of this bill codifies the M′Naghten Rule, as stated above, as the standard for establishing insanity for purposes of the insanity defense. (NRS 174.035)

Existing law requires a court to order a person who is acquitted by reason of insanity committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services if the court determines that there is clear and convincing evidence that the person is mentally ill. (NRS 175.539) Existing law provides that such a person committed to the custody of the Administrator is generally subject to the same procedures upon commitment as a person who is committed to the custody of the Administrator because he is incompetent to stand trial. (NRS 175.539, 178.400-178.460)

Sections 30-39 of this bill establish the procedures governing the discharge or conditional release of a person who is committed to the custody of the Administrator following an acquittal by reason of insanity. Section 36 provides that such a person is eligible for discharge or conditional release from custody if he establishes by a preponderance of the evidence that he would not be a danger, as a result of any mental disorder, to himself or others. Section 37 provides that an initial hearing to determine whether a person is eligible for discharge or conditional release must be held not later than 60 days after the person has been committed to the custody of the Administrator, except in certain circumstances. Not later than 21 days before this hearing and annually thereafter, the Administrator shall prepare a report concerning the condition of the person and provide a copy of it to the

person, his attorney, the prosecuting attorney and the court. The opinion of the Administrator included in the report concerning whether or not the person should be discharged or conditionally released may be challenged by either the person committed to the custody of the Administrator or the district attorney. Section 38 provides that if a person is not discharged or conditionally released from the custody of the Administrator following his initial hearing, the person may petition annually for a discharge or conditional release. Section 38 further provides that the Division may petition for a discharge or conditional release at any time if the petition is accompanied by the affidavit of a physician or licensed psychologist which states that the person's mental condition has improved since the most recent hearing concerning the discharge or conditional release of the person.

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

Section 1. NRS 169.195 is hereby amended to read as follows:

169.195 1. "Trial" means that portion of a criminal action which:

(a) If a jury is used, begins with the impaneling of the jury and ends with the return of the verdict, both inclusive.

(b) If no jury is used, begins with the opening statement, or if there is no opening statement, when the first witness is sworn, and ends with the closing argument or upon submission of the cause to the court without argument, both inclusive.

2. "Trial" does not include any proceeding had upon a plea of guilty *or guilty but mentally ill* to determine the degree of guilt or to fix the punishment.

Sec. 2. NRS 173.035 is hereby amended to read as follows:

173.035 1. An information may be filed against any person for any offense when the person:

(a) Has had a preliminary examination as provided by law before a justice of the peace, or other examining officer or magistrate, and has been bound over to appear at the court having jurisdiction; or

(b) Has waived his right to a preliminary examination.

2. If, however, upon the preliminary examination the accused has been discharged, or the affidavit or complaint upon which the examination has been held has not been delivered to the clerk of the proper court, the Attorney General when acting pursuant to a specific statute or the district attorney may, upon affidavit of any person who has knowledge of the commission of an offense, and who is a competent witness to testify in the case, setting forth the offense and the name of the person or persons charged with the commission thereof, upon being furnished with the names of the witnesses for the prosecution, by leave of the court first had, file an information, and process must forthwith be issued thereon. The affidavit need not be filed in cases where the defendant has waived a preliminary examination, or upon a preliminary examination has been bound over to appear at the court having jurisdiction.

3. The information must be filed within 15 days after the holding or waiver of the preliminary examination. Each information must set forth the crime committed according to the facts.

4. If, with the consent of the prosecuting attorney, a defendant waives his right to a preliminary examination in accordance with an agreement by the defendant to plead guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or *to* at least one *,* but not all, of the initial charges, the information filed against the defendant pursuant to this section may contain only the offense or offenses to which the defendant has agreed to enter a plea of guilty *, guilty but mentally ill* or nolo contendere. If, for any reason, the agreement is rejected by the district court or withdrawn by the defendant, the prosecuting attorney may file an amended information charging all of the offenses which were in the criminal complaint upon which the preliminary examination was waived. The defendant must then be arraigned in accordance with the amended information.

Sec. 3. NRS 173.125 is hereby amended to read as follows:

173.125 The prosecution is not required to elect between the different offenses or counts set forth in the indictment or information, and a plea of guilty *or guilty but mentally ill* to one or more offenses charged in the indictment or information does not preclude prosecution for the other offenses.

Sec. 4. NRS 174.035 is hereby amended to read as follows:

174.035 1. A defendant may plead not guilty, guilty *, guilty but mentally ill* or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty [.] *or guilty but mentally ill.*

2. If a plea of guilty *or guilty but mentally ill* is made in a written plea agreement, the agreement must be in substantially the form prescribed in NRS 174.063. If a plea of guilty *or guilty but mentally ill* is made orally, the court shall not accept such a plea or a plea of nolo contendere without first addressing the defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and consequences of the plea.

3. With the consent of the court and the district attorney, a defendant may enter a conditional plea of guilty *, guilty but mentally ill* or nolo contendere, reserving in writing the right, on appeal from the judgment, to a review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal must be allowed to withdraw the plea.

4. *A plea of guilty but mentally ill must be entered not less than 21 days before the date set for trial. A defendant who has entered a plea of guilty but mentally ill has the burden of establishing his mental illness by a preponderance of the evidence. Except as otherwise provided by specific statute, a defendant who enters such a plea is subject to the same criminal, civil and administrative penalties and procedures as a defendant who pleads guilty.*

5. The defendant may, in the alternative or in addition to any one of the pleas permitted by subsection 1, plead not guilty by reason of insanity. A plea of not guilty by reason of insanity must be entered not less than 21 days before the date set for trial. A defendant who has not so pleaded may offer the defense of insanity during trial upon good cause shown. Under such a plea or defense, the burden of proof is upon the defendant to establish ~~[his insanity]~~ by a preponderance of the evidence ~~[.~~

~~5.]~~ *that:*

(a) Due to a disease or defect of the mind, he was in a delusional state at the time of the alleged offense; and

(b) Due to the delusional state, he either did not:

(1) Know or understand the nature and capacity of his act; or

(2) Appreciate that his conduct was wrong, meaning not authorized by law.

6. If a defendant refuses to plead or if the court refuses to accept a plea of guilty *or guilty but mentally ill* or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.

~~[6.]~~ *7.* A defendant may not enter a plea of guilty *or guilty but mentally ill* pursuant to a plea bargain for an offense punishable as a felony for which:

(a) Probation is not allowed; or

(b) The maximum prison sentence is more than 10 years,

➥ unless the plea bargain is set forth in writing and signed by the defendant, the defendant's attorney, if he is represented by counsel, and the prosecuting attorney.

8. As used in this section, a "disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

Sec. 5. NRS 174.055 is hereby amended to read as follows:

174.055 In ~~[the]~~ *a* justice court, if the defendant pleads guilty ~~[,]~~ *or guilty but mentally ill,* the court may, before entering such a plea or pronouncing judgment, examine witnesses to ascertain the gravity of the offense committed. If it appears to the court that a higher offense has been committed than the offense charged in the complaint, the court may order the defendant to be committed or admitted to bail or to answer any indictment that may be found against him or any information which may be filed by the district attorney.

Sec. 6. NRS 174.061 is hereby amended to read as follows:

174.061 1. If a prosecuting attorney enters into an agreement with a defendant in which the defendant agrees to testify against another defendant in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for a recommendation of a reduced sentence, the agreement:

(a) Is void if the defendant's testimony is false.

(b) Must be in writing and include a statement that the agreement is void if the defendant's testimony is false.

2. A prosecuting attorney shall not enter into an agreement with a defendant which:

(a) Limits the testimony of the defendant to a predetermined formula.

(b) Is contingent on the testimony of the defendant contributing to a specified conclusion.

Sec. 7. NRS 174.063 is hereby amended to read as follows:

174.063 1. If a plea of guilty *or guilty but mentally ill* is made in a written plea agreement, the agreement must be substantially in the following form:

Case No. .....

Dept. No. .....

IN THE ..... JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF.....,

The State of Nevada ,

PLAINTIFF,

v.

(Name of defendant) ,

DEFENDANT.

GUILTY *OR GUILTY BUT MENTALLY ILL* PLEA AGREEMENT

I hereby agree to plead guilty *or guilty but mentally ill* to: (List charges to which defendant is pleading guilty ~~[),]~~ *or guilty but mentally ill),* as more fully alleged in the charging document attached hereto as Exhibit 1.

My decision to plead guilty *or guilty but mentally ill* is based upon the plea agreement in this case which is as follows:

(State the terms of the agreement.)

CONSEQUENCES OF THE PLEA

I understand that by pleading guilty *or guilty but mentally ill* I admit the facts which support all the elements of the offenses to which I now plead as set forth in Exhibit 1.

I understand that as a consequence of my plea of guilty *or guilty but mentally ill* I may be imprisoned for a period of not more than (maximum term of imprisonment) and that I (may or will) be fined up to (maximum amount of fine). I understand that the law requires me to pay an administrative assessment fee.

I understand that, if appropriate, I will be ordered to make restitution to the victim of the offenses to which I am pleading guilty *or guilty but mentally ill* and to the victim of any related offense which is being dismissed or not prosecuted pursuant to this agreement. I will also be ordered to reimburse the State of Nevada for expenses ~~[related]~~ *relating* to my extradition, if any.

I understand that I (am or am not) eligible for probation for the offense to which I am pleading guilty ~~[.]~~ *or guilty but mentally ill.* (I understand that, except as otherwise provided by statute, the question of whether I receive probation is in the discretion of the sentencing judge, or I understand that I must serve a mandatory minimum term of (term of imprisonment) or pay a minimum mandatory fine of (amount of fine) or serve a mandatory minimum

term (term of imprisonment) and pay a minimum mandatory fine of (amount of fine).)

I understand that if more than one sentence of imprisonment is imposed and I am eligible to serve the sentences concurrently, the sentencing judge has the discretion to order the sentences served concurrently or consecutively.

I understand that information regarding charges not filed, dismissed charges or charges to be dismissed pursuant to this agreement may be considered by the judge at sentencing.

I have not been promised or guaranteed any particular sentence by anyone. I know that my sentence is to be determined by the court within the limits prescribed by statute. I understand that if my attorney or the State of Nevada or both recommend any specific punishment to the court, the court is not obligated to accept the recommendation.

I understand that the Division of Parole and Probation of the Department of Public Safety may or will prepare a report for the sentencing judge before sentencing. This report will include matters relevant to the issue of sentencing, including my criminal history. I understand that this report may contain hearsay information regarding my background and criminal history. My attorney (if represented by counsel) and I will each have the opportunity to comment on the information contained in the report at the time of sentencing.

WAIVER OF RIGHTS

By entering my plea of guilty ~~[,]~~ *or guilty but mentally ill,* I understand that I have waived the following rights and privileges:

1. The constitutional privilege against self-incrimination, including the right to refuse to testify at trial, in which event the prosecution would not be allowed to comment to the jury about my refusal to testify.

2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an attorney, either appointed or retained. At trial, the State would bear the burden of proving beyond a reasonable doubt each element of the offense charged.

3. The constitutional right to confront and cross-examine any witnesses who would testify against me.

4. The constitutional right to subpoena witnesses to testify on my behalf.

5. The constitutional right to testify in my own defense.

6. The right to appeal the conviction, with the assistance of an attorney, either appointed or retained, unless the appeal is based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings and except as otherwise provided in subsection 3 of NRS 174.035.

VOLUNTARINESS OF PLEA

I have discussed the elements of all the original charges against me with my attorney (if represented by counsel) and I understand the nature of these charges against me.

I understand that the State would have to prove each element of the charge against me at trial.

I have discussed with my attorney (if represented by counsel) any possible defenses and circumstances which might be in my favor.

All of the foregoing elements, consequences, rights and waiver of rights have been thoroughly explained to me by my attorney (if represented by counsel).

I believe that pleading guilty *or guilty but mentally ill* and accepting this plea bargain is in my best interest and that a trial would be contrary to my best interest.

I am signing this agreement voluntarily, after consultation with my attorney (if represented by counsel) and I am not acting under duress or coercion or by virtue of any promises of leniency, except for those set forth in this agreement.

I am not now under the influence of intoxicating liquor, a controlled substance or other drug which would in any manner impair my ability to comprehend or understand this agreement or the proceedings surrounding my entry of this plea.

My attorney (if represented by counsel) has answered all my questions regarding this guilty *or guilty but mentally ill* plea agreement and its consequences to my satisfaction and I am satisfied with the services provided by my attorney.

Dated: This ..... day of the month of ……. of the year …….

.....

Defendant.

Agreed to on this ..... day of the month of ……. of the year …….

.....

Deputy District Attorney.

2. If the defendant is represented by counsel, the written plea agreement must also include a certificate of counsel that is substantially in the following form:

CERTIFICATE OF COUNSEL

I, the undersigned, as the attorney for the defendant named herein and as an officer of the court hereby certify that:

1. I have fully explained to the defendant the allegations contained in the charges to which guilty *or guilty but mentally ill* pleas are being entered.

2. I have advised the defendant of the penalties for each charge and the restitution that the defendant may be ordered to pay.

3. All pleas of guilty *or guilty but mentally ill* offered by the defendant pursuant to this agreement are consistent with all the facts known to me and

are made with my advice to the defendant and are in the best interest of the defendant.

4. To the best of my knowledge and belief, the defendant:

(a) Is competent and understands the charges and the consequences of pleading guilty *or guilty but mentally ill* as provided in this agreement.

(b) Executed this agreement and will enter all guilty *or guilty but mentally ill* pleas pursuant hereto voluntarily.

(c) Was not under the influence of intoxicating liquor, a controlled substance or other drug at the time of the execution of this agreement.

Dated: This ..... day of the month of ……. of the year …….

.....

Attorney for defendant.

Sec. 8. NRS 174.065 is hereby amended to read as follows:

174.065 Except as otherwise provided in NRS 174.061:

1. On a plea of guilty *or guilty but mentally ill* to an information or indictment accusing a defendant of a crime divided into degrees, when consented to by the prosecuting attorney in open court and approved by the court, the plea may specify the degree, and in such event the defendant shall not be punished for a higher degree than that specified in the plea.

2. On a plea of guilty *or guilty but mentally ill* to an indictment or information for murder of the first degree, when consented to by the prosecuting attorney in open court and approved by the court, the plea may specify a punishment less than death. The specified punishment, or any lesser punishment, may be imposed by a single judge.

Sec. 9. NRS 174.075 is hereby amended to read as follows:

174.075 1. Pleadings in criminal proceedings are the indictment, the information and, in justice court, the complaint, and the pleas of guilty, *guilty but mentally ill,* not guilty *, not guilty by reason of insanity* and nolo contendere.

2. All other pleas, ~~[and]~~ demurrers and motions to quash are abolished, and defenses and objections raised before trial which could have been raised by one or more of them may be raised only by motion to dismiss or to grant appropriate relief, as provided in this title.

Sec. 10. Chapter 175 of NRS is hereby amended by adding thereto a new section to read as follows:

1. During a trial, upon a plea of not guilty by reason of insanity, the trier of fact may find the defendant guilty but mentally ill if the trier of fact finds all of the following:

(a) The defendant is guilty beyond a reasonable doubt of an offense;

(b) The defendant has established by a preponderance of the evidence that due to a disease or defect of the mind, he was mentally ill at the time of the commission of the offense; and

(c) The defendant has not established by a preponderance of the evidence that he is not guilty by reason of insanity pursuant to subsection 5 of NRS 174.035.

2. Except as otherwise provided by specific statute, a defendant who is found guilty but mentally ill is subject to the same criminal, civil and administrative penalties and procedures as a defendant who is found guilty.

3. As used in this section, a "disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

Sec. 11. NRS 175.101 is hereby amended to read as follows:

175.101 If by reason of absence from the judicial district, death, sickness or other disability the judge before whom the defendant has been tried is unable to perform the duties to be performed by the court after a verdict or finding of ~~[guilt,]~~ *guilty or guilty but mentally ill,* any other judge regularly sitting in or assigned to the court may perform those duties *,* ~~[;]~~ but if such other judge is satisfied that he cannot perform those duties because he did not preside at the trial or for any other reason, he may in his discretion grant a new trial.

Sec. 12. NRS 175.282 is hereby amended to read as follows:

175.282 If a prosecuting attorney enters into an agreement with a defendant in which the defendant agrees to testify against another defendant in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for a recommendation of a reduced sentence, the court shall:

1. After excising any portion it deems irrelevant or prejudicial, permit the jury to inspect the agreement;

2. If the defendant who is testifying has not entered his plea or been sentenced pursuant to the agreement, instruct the jury regarding the possible related pressures on the defendant by providing the jury with an appropriate cautionary instruction; and

3. Allow the defense counsel to cross-examine fully the defendant who is testifying concerning the agreement.

Sec. 13. NRS 175.381 is hereby amended to read as follows:

175.381 1. If, at any time after the evidence on either side is closed, the court deems the evidence insufficient to warrant a conviction, it may advise the jury to acquit the defendant, but the jury is not bound by such advice.

2. The court may, on a motion of a defendant or on its own motion, which is made after the jury returns a verdict of guilty ~~[,]~~ *or guilty but mentally ill,* set aside the verdict and enter a judgment of acquittal if the evidence is insufficient to sustain a conviction. The motion for a judgment of acquittal must be made within 7 days after the jury is discharged or within such further time as the court may fix during that period.

3. If a motion for a judgment of acquittal after a verdict of guilty *or guilty but mentally ill* pursuant to this section is granted, the court shall also determine whether any motion for a new trial should be granted if the judgment of acquittal is thereafter vacated or reversed. The court shall specify the grounds for that determination. If the motion for a new trial is granted conditionally, the order thereon does not affect the finality of the judgment. If the motion for a new trial is granted conditionally and the

judgment is reversed on appeal, the new trial must proceed unless the appellate court has otherwise ordered. If the motion is denied conditionally, the defendant on appeal may assert error in that denial, and if the judgment is reversed on appeal, subsequent proceedings must be in accordance with the order of the appellate court.

Sec. 14. NRS 175.501 is hereby amended to read as follows:

175.501 The defendant may be found guilty *or guilty but mentally ill* of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an offense necessarily included therein if the attempt is an offense.

Sec. 14.5. *NRS 175.539 is hereby amended to read as follows:*

175.539 1. Where on a trial a defense of insanity is interposed by the defendant and he is acquitted by reason of that defense, the finding of the jury pending the judicial determination pursuant to subsection 2 has the same effect as if he were regularly adjudged insane, and the judge must:

(a) Order a peace officer to take the person into protective custody and transport him to a forensic facility for detention pending a hearing to determine his mental health;

(b) Order the examination of the person by two psychiatrists, two psychologists, or one psychiatrist and one psychologist who are employed by a division facility; and

(c) At a hearing in open court, receive the report of the examining advisers and allow counsel for the State and for the person to examine the advisers, introduce other evidence and cross-examine witnesses.

2. If the court finds, after the hearing:

(a) That there is not clear and convincing evidence that the person is a mentally ill person, the court must order his discharge; or

(b) That there is clear and convincing evidence that the person is a mentally ill person, the court must order that he be committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services until he is ~~[regularly]~~ discharged *or conditionally released* therefrom in accordance with ~~[law.]~~ *sections 30 to 39, inclusive, of this act.*

➥ The court shall issue its finding within 90 days after the defendant is acquitted.

3. The Administrator shall make the ~~[same]~~ reports and the court shall proceed in the ~~[same]~~ manner ~~[in the case of a person committed to the custody of the Division of Mental Health and Developmental Services pursuant to this section as of a person committed because he is incompetent to stand trial pursuant to NRS 178.400 to 178.460, inclusive, except that the determination to be made by the Administrator and the district judge on the question of release is whether the person has recovered from his mental illness or has improved to such an extent that he is no longer a mentally ill person.]~~ *provided in sections 30 to 39, inclusive, of this act.*

4. As used in this section, unless the context otherwise requires:

(a) "Division facility" has the meaning ascribed to it in NRS 433.094.

(b) "Forensic facility" means a secure facility of the Division of Mental Health and Developmental Services of the Department of Health and Human Services for mentally disordered offenders and defendants. The term includes, without limitation, Lakes Crossing Center.

(c) "Mentally ill person" has the meaning ascribed to it in ~~[NRS 433A.115.]~~ *section 35 of this act.*

Sec. 15. NRS 175.547 is hereby amended to read as follows:

175.547 1. In any case in which a defendant pleads or is found guilty *or guilty but mentally ill* of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home, the court shall, at the request of the prosecuting attorney, conduct a separate hearing to determine whether the offense was sexually motivated. A request for such a hearing may not be submitted to the court unless the prosecuting attorney, before the commencement of the trial, files and serves upon the defendant a written notice of his intention to request such a hearing.

2. A hearing requested pursuant to subsection 1 must be conducted before:

(a) The court imposes its sentence; or

(b) A separate penalty hearing is conducted.

3. At the hearing, only evidence concerning the question of whether the offense was sexually motivated may be presented. The prosecuting attorney must prove beyond a reasonable doubt that the offense was sexually motivated.

4. The court shall enter its finding in the record.

5. For the purposes of this section, an offense is "sexually motivated" if one of the purposes for which the person committed the offense was his sexual gratification.

Sec. 16. NRS 175.552 is hereby amended to read as follows:

175.552 1. Except as otherwise provided in subsection 2, in every case in which there is a finding that a defendant is guilty *or guilty but mentally ill* of murder of the first degree, whether or not the death penalty is sought, the court shall conduct a separate penalty hearing. The separate penalty hearing must be conducted as follows:

(a) If the finding is made by a jury, the separate penalty hearing must be conducted in the trial court before the trial jury, as soon as practicable.

(b) If the finding is made upon a plea of guilty *or guilty but mentally ill* or a trial without a jury and the death penalty is sought, the separate penalty hearing must be conducted before a jury impaneled for that purpose, as soon as practicable.

(c) If the finding is made upon a plea of guilty *or guilty but mentally ill* or a trial without a jury and the death penalty is not sought, the separate penalty hearing must be conducted *as soon as practicable* before the judge who conducted the trial or who accepted the plea . ~~[of guilty, as soon as practicable.]~~

2. In a case in which the death penalty is not sought or in which a court has made a finding that the defendant is mentally retarded and has stricken the notice of intent to seek the death penalty pursuant to NRS 174.098, the parties may by stipulation waive the separate penalty hearing required in subsection 1. When stipulating to such a waiver, the parties may also include an agreement to have the sentence, if any, imposed by the trial judge. Any stipulation pursuant to this subsection must be in writing and signed by the defendant, his attorney, if any, and the prosecuting attorney.

3. During the hearing, evidence may be presented concerning aggravating and mitigating circumstances relative to the offense, defendant or victim and on any other matter which the court deems relevant to sentence, whether or not the evidence is ordinarily admissible. Evidence may be offered to refute hearsay matters. No evidence which was secured in violation of the Constitution of the United States or the Constitution of the State of Nevada may be introduced. The State may introduce evidence of additional aggravating circumstances as set forth in NRS 200.033, other than the aggravated nature of the offense itself, only if it has been disclosed to the defendant before the commencement of the penalty hearing.

4. In a case in which the death penalty is not sought or in which a court has found the defendant to be mentally retarded and has stricken the notice of intent to seek the death penalty pursuant to NRS 174.098, the jury or the trial judge shall determine whether the defendant should be sentenced to life with the possibility of parole or life without the possibility of parole.

Sec. 17. Chapter 176 of NRS is hereby amended by adding a new section to read as follows:

1. If a defendant is found guilty but mentally ill pursuant to section 10 of this act or the court accepts his plea of guilty but mentally ill entered pursuant to NRS 174.035, and the court finds by a preponderance of the evidence that:

(a) The defendant is not mentally ill at the time of sentencing, the court shall impose any sentence that the court is authorized to impose upon a defendant who pleads or is found guilty of the same offense; or

(b) The defendant is mentally ill at the time of sentencing, the court shall:

(1) Impose any sentence that the court is authorized to impose upon a defendant who pleads or is found guilty of the same offense; and

(2) Include in that sentence an order that the defendant, during the period of his confinement or probation, be given or obtain such treatment as is medically indicated for his mental illness.

2. If the sentence of a defendant includes a period of confinement ~~*[, the Department of Corrections shall provide any treatment ordered by a court pursuant to subsection 1 at a facility designated by the Department to provide such treatment. The]*~~ *at a state correctional facility, the Department of Corrections shall separate such a person from the general population of the prison and shall not return the person to that population until a licensed psychiatrist or psychologist employed by the Department finds that the*

person ~~[is]~~ no longer ~~[mentally ill.]~~ requires acute mental health care. If the person is returned to the general population, the person must continue to be given or obtain such treatment as is medically indicated for his mental illness.

Sec. 18. NRS 176.059 is hereby amended to read as follows:

176.059 1. Except as otherwise provided in subsection 2, when a defendant pleads guilty *or guilty but mentally ill* or is found guilty *or guilty but mentally ill* of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum prescribed by the following schedule as an administrative assessment and render a judgment against the defendant for the assessment:

Fine	Assessment
$5 to $49	$25
50 to 59	40
60 to 69	45
70 to 79	50
80 to 89	55
90 to 99	60
100 to 199	70
200 to 299	80
300 to 399	90
400 to 499	100
500 to 1,000	115

If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the amount of the administrative assessment that corresponds with the fine for which the defendant would have been responsible as prescribed by the schedule in this subsection.

2. The provisions of subsection 1 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

3. The money collected for an administrative assessment must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 5 or 6. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a

refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

4. If the justice or judge permits the fine and administrative assessment to be paid in installments, the payments must be first applied to the unpaid balance of the administrative assessment. The city treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 5. The county treasurer shall distribute partially collected administrative assessments in accordance with the requirements of subsection 6.

5. The money collected for administrative assessments in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Two dollars to the county treasurer for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

(b) Seven dollars for credit to a special revenue fund for the use of the municipal courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the municipal general fund if it has not been committed for expenditure. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

(c) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund.

6. The money collected for administrative assessments in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Two dollars for credit to a special account in the county general fund for the use of the county's juvenile court or for services to juvenile offenders. Any money remaining in the special account after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request by a juvenile court, monthly reports of the revenue credited to and expenditures made from the special account.

(b) Seven dollars for credit to a special revenue fund for the use of the justice courts. Any money remaining in the special revenue fund after 2 fiscal years must be deposited in the county general fund if it has not been committed for expenditure. The county treasurer shall provide, upon request

by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

(c) The remainder of each assessment to the State Controller for credit to a special account in the State General Fund.

7. The money apportioned to a juvenile court, a justice court or a municipal court pursuant to this section must be used, in addition to providing services to juvenile offenders in the juvenile court, to improve the operations of the court, or to acquire appropriate advanced technology or the use of such technology, or both. Money used to improve the operations of the court may include expenditures for:

(a) Training and education of personnel;

(b) Acquisition of capital goods;

(c) Management and operational studies; or

(d) Audits.

8. Of the total amount deposited in the State General Fund pursuant to subsections 5 and 6, the State Controller shall distribute the money received to the following public agencies in the following manner:

(a) Not less than 51 percent to the Office of Court Administrator for allocation as follows:

(1) Eighteen and one-half percent of the amount distributed to the Office of Court Administrator for the administration of the courts.

(2) Nine percent of the amount distributed to the Office of Court Administrator for the development of a uniform system for judicial records.

(3) Nine percent of the amount distributed to the Office of Court Administrator for continuing judicial education.

(4) Sixty percent of the amount distributed to the Office of Court Administrator for the Supreme Court.

(5) Three and one-half percent of the amount distributed to the Office of Court Administrator for the payment for the services of retired justices and retired district judges.

(b) Not more than 49 percent must be used to the extent of legislative authorization for the support of:

(1) The Central Repository for Nevada Records of Criminal History;

(2) The Peace Officers′ Standards and Training Commission;

(3) The operation by the Nevada Highway Patrol of a computerized switching system for information related to law enforcement;

(4) The Fund for the Compensation of Victims of Crime; and

(5) The Advisory Council for Prosecuting Attorneys.

9. As used in this section:

(a) ″Juvenile court″ has the meaning ascribed to it in NRS 62A.180.

(b) ″Office of Court Administrator″ means the Office of Court Administrator created pursuant to NRS 1.320.

Sec. 19. NRS 176.0611 is hereby amended to read as follows:

176.0611 1. A county or a city, upon recommendation of the appropriate court, may, by ordinance, authorize the justices or judges of the

justice or municipal courts within its jurisdiction to impose for not longer than 50 years, in addition to the administrative assessments imposed pursuant to NRS 176.059 and 176.0613, an administrative assessment for the provision of court facilities.

2. Except as otherwise provided in subsection 3, in any jurisdiction in which an administrative assessment for the provision of court facilities has been authorized, when a defendant pleads guilty or *guilty but mentally ill or* is found guilty *or guilty but mentally ill* of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of $10 as an administrative assessment for the provision of court facilities and render a judgment against the defendant for the assessment. If the justice or judge sentences the defendant to perform community service in lieu of a fine, the justice or judge shall include in the sentence the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance that is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of court facilities must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the amount posted for bail pursuant to this subsection must be disbursed in the manner set forth in subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of court facilities to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to this section;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs pursuant to NRS 176.0613; and

(d) To pay the fine.

6. The money collected for administrative assessments for the provision of court facilities in municipal courts must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. The city treasurer shall deposit the money received in a special revenue fund. The city may use the money in the special revenue fund only to:

(a) Acquire land on which to construct additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(b) Construct or acquire additional facilities for the municipal courts or a regional justice center that includes the municipal courts.

(c) Renovate or remodel existing facilities for the municipal courts.

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the municipal courts or a regional justice center that includes the municipal courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.

(e) Acquire advanced technology for use in the additional or renovated facilities.

(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the municipal courts or a regional justice center that includes the municipal courts.

➥ Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the municipal general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The city treasurer shall provide, upon request by a municipal court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

7. The money collected for administrative assessments for the provision of court facilities in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall deposit the money received to a special revenue fund. The county may use the money in the special revenue fund only to:

(a) Acquire land on which to construct additional facilities for the justice courts or a regional justice center that includes the justice courts.

(b) Construct or acquire additional facilities for the justice courts or a regional justice center that includes the justice courts.

(c) Renovate or remodel existing facilities for the justice courts.

(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or the renovation of an existing facility for the justice courts or a regional justice center that includes

the justice courts. This paragraph does not authorize the expenditure of money from the fund for furniture, fixtures or equipment for judicial chambers.

(e) Acquire advanced technology for use in the additional or renovated facilities.

(f) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or the construction or renovation of facilities for the justice courts or a regional justice center that includes the justice courts.

➥ Any money remaining in the special revenue fund after 5 fiscal years must be deposited in the county general fund for the continued maintenance of court facilities if it has not been committed for expenditure pursuant to a plan for the construction or acquisition of court facilities or improvements to court facilities. The county treasurer shall provide, upon request by a justice court, monthly reports of the revenue credited to and expenditures made from the special revenue fund.

8. If money collected pursuant to this section is to be used to acquire land on which to construct a regional justice center, to construct a regional justice center or to pay debt service on bonds issued for these purposes, the county and the participating cities shall, by interlocal agreement, determine such issues as the size of the regional justice center, the manner in which the center will be used and the apportionment of fiscal responsibility for the center.

Sec. 20. NRS 176.0613 is hereby amended to read as follows:

176.0613 1. The justices or judges of the justice or municipal courts shall impose, in addition to an administrative assessment imposed pursuant to NRS 176.059 and 176.0611, an administrative assessment for the provision of specialty court programs.

2. Except as otherwise provided in subsection 3, when a defendant pleads guilty *or guilty but mentally ill* or is found guilty *or guilty but mentally ill* of a misdemeanor, including the violation of any municipal ordinance, the justice or judge shall include in the sentence the sum of $7 as an administrative assessment for the provision of specialty court programs and render a judgment against the defendant for the assessment. If a defendant is sentenced to perform community service in lieu of a fine, the sentence must include the administrative assessment required pursuant to this subsection.

3. The provisions of subsection 2 do not apply to:

(a) An ordinance regulating metered parking; or

(b) An ordinance which is specifically designated as imposing a civil penalty or liability pursuant to NRS 244.3575 or 268.019.

4. The money collected for an administrative assessment for the provision of specialty court programs must not be deducted from the fine imposed by the justice or judge but must be taxed against the defendant in addition to the fine. The money collected for such an administrative assessment must be stated separately on the court's docket and must be

included in the amount posted for bail. If bail is forfeited, the administrative assessment included in the bail pursuant to this subsection must be disbursed pursuant to subsection 6 or 7. If the defendant is found not guilty or the charges are dismissed, the money deposited with the court must be returned to the defendant. If the justice or judge cancels a fine because the fine has been determined to be uncollectible, any balance of the fine and the administrative assessment remaining unpaid shall be deemed to be uncollectible and the defendant is not required to pay it. If a fine is determined to be uncollectible, the defendant is not entitled to a refund of the fine or administrative assessment he has paid and the justice or judge shall not recalculate the administrative assessment.

5. If the justice or judge permits the fine and administrative assessment for the provision of specialty court programs to be paid in installments, the payments must be applied in the following order:

(a) To pay the unpaid balance of an administrative assessment imposed pursuant to NRS 176.059;

(b) To pay the unpaid balance of an administrative assessment for the provision of court facilities pursuant to NRS 176.0611;

(c) To pay the unpaid balance of an administrative assessment for the provision of specialty court programs; and

(d) To pay the fine.

6. The money collected for an administrative assessment for the provision of specialty court programs in municipal court must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the city treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

7. The money collected for an administrative assessment for the provision of specialty court programs in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. On or before the 15th day of that month, the county treasurer shall deposit the money received for each administrative assessment with the State Controller for credit to a special account in the State General Fund administered by the Office of Court Administrator.

8. The Office of Court Administrator shall allocate the money credited to the State General Fund pursuant to subsections 6 and 7 to courts to assist with the funding or establishment of specialty court programs.

9. Money that is apportioned to a court from administrative assessments for the provision of specialty court programs must be used by the court to:

(a) Pay for the treatment and testing of persons who participate in the program; and

(b) Improve the operations of the specialty court program by any combination of:

(1) Acquiring necessary capital goods;

(2) Providing for personnel to staff and oversee the specialty court program;

(3) Providing training and education to personnel;

(4) Studying the management and operation of the program;

(5) Conducting audits of the program;

(6) Supplementing the funds used to pay for judges to oversee a specialty court program; or

(7) Acquiring or using appropriate technology.

10. As used in this section:

(a) "Office of Court Administrator" means the Office of Court Administrator created pursuant to NRS 1.320; and

(b) "Specialty court program" means a program established by a court to facilitate testing, treatment and oversight of certain persons over whom the court has jurisdiction and who the court has determined suffer from a mental illness or abuses alcohol or drugs. Such a program includes, without limitation, a program established pursuant to NRS 176A.250 or 453.580.

Sec. 21. NRS 176.062 is hereby amended to read as follows:

176.062 1. When a defendant pleads guilty *or guilty but mentally ill* or is found guilty *or guilty but mentally ill* of a felony or gross misdemeanor, the judge shall include in the sentence the sum of $25 as an administrative assessment and render a judgment against the defendant for the assessment.

2. The money collected for an administrative assessment:

(a) Must not be deducted from any fine imposed by the judge;

(b) Must be taxed against the defendant in addition to the fine; and

(c) Must be stated separately on the court's docket.

3. The money collected for administrative assessments in district courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month. The county treasurer shall distribute, on or before the 15th day of that month, the money received in the following amounts for each assessment received:

(a) Five dollars for credit to a special account in the county general fund for the use of the district court.

(b) The remainder of each assessment to the State Controller.

4. The State Controller shall credit the money received pursuant to subsection 3 to a special account for the assistance of criminal justice in the State General Fund, and distribute the money from the account to the Attorney General as authorized by the Legislature. Any amount received in excess of the amount authorized by the Legislature for distribution must remain in the account.

Sec. 22. NRS 176.135 is hereby amended to read as follows:

176.135 1. Except as otherwise provided in this section and NRS 176.151, the Division shall make a presentence investigation and report to the court on each defendant who pleads guilty *, guilty but mentally ill* or nolo contendere to *,* or is found guilty *or guilty but mentally ill* of *,* a felony.

2. If a defendant is convicted of a felony that is a sexual offense, the presentence investigation and report:

(a) Must be made before the imposition of sentence or the granting of probation; and

(b) If the sexual offense is an offense for which the suspension of sentence or the granting of probation is permitted, must include a psychosexual evaluation of the defendant.

3. If a defendant is convicted of a felony other than a sexual offense, the presentence investigation and report must be made before the imposition of sentence or the granting of probation unless:

(a) A sentence is fixed by a jury; or

(b) Such an investigation and report on the defendant has been made by the Division within the 5 years immediately preceding the date initially set for sentencing on the most recent offense.

4. Upon request of the court, the Division shall make presentence investigations and reports on defendants who plead guilty *, guilty but mentally ill* or nolo contendere to *,* or are found guilty *or guilty but mentally ill* of *,* gross misdemeanors.

Sec. 23. NRS 176.151 is hereby amended to read as follows:

176.151 1. If a defendant pleads guilty *, guilty but mentally ill* or nolo contendere to *,* or is found guilty *or guilty but mentally ill* of *,* one or more category E felonies, but no other felonies, the Division shall not make a presentence investigation and report on the defendant pursuant to NRS 176.135, unless the Division has not made a presentence investigation and report on the defendant pursuant to NRS 176.135 within the 5 years immediately preceding the date initially set for sentencing on the category E felony or felonies and:

(a) The court requests a presentence investigation and report; or

(b) The prosecuting attorney possesses evidence that would support a decision by the court to deny probation to the defendant pursuant to paragraph (b) of subsection 1 of NRS 176A.100.

2. If the Division does not make a presentence investigation and report on a defendant pursuant to subsection 1, the Division shall, not later than 45 days after the date on which the defendant is sentenced, make a general investigation and report on the defendant that contains:

(a) Any prior criminal record of the defendant;

(b) Information concerning the characteristics of the defendant, the circumstances affecting his behavior and the circumstances of his offense that may be helpful to persons responsible for the supervision or correctional treatment of the defendant;

(c) Information concerning the effect that the offense committed by the defendant has had upon the victim, including, without limitation, any physical or psychological harm or financial loss suffered by the victim, to the extent that such information is available from the victim or other sources, but the provisions of this paragraph do not require any particular examination or

testing of the victim, and the extent of any investigation or examination and the extent of the information included in the report is solely at the discretion of the Division;

(d) Data or information concerning reports and investigations thereof made pursuant to chapter 432B of NRS that relate to the defendant and are made available pursuant to NRS 432B.290; and

(e) Any other information that the Division believes may be helpful to persons responsible for the supervision or correctional treatment of the defendant.

Sec. 24. NRS 176.165 is hereby amended to read as follows:

176.165 Except as otherwise provided in this section, a motion to withdraw a plea of guilty *, guilty but mentally ill* or nolo contendere may be made only before sentence is imposed or imposition of sentence is suspended. To correct manifest injustice, the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw his plea.

Sec. 25. NRS 176A.255 is hereby amended to read as follows:

176A.255 1. A justice court or a municipal court may, upon approval of the district court, transfer original jurisdiction to the district court of a case involving an eligible defendant.

2. As used in this section, ″eligible defendant″ means a person who:

(a) Has not tendered a plea of guilty *, guilty but mentally ill* or nolo contendere to, or been found guilty *or guilty but mentally ill* of, an offense that is a misdemeanor;

(b) Appears to suffer from mental illness or to be mentally retarded; and

(c) Would benefit from assignment to a program established pursuant to NRS 176A.250.

Sec. 26. NRS 176A.260 is hereby amended to read as follows:

176A.260 1. Except as otherwise provided in subsection 2, if a defendant who suffers from mental illness or is mentally retarded tenders a plea of guilty *, guilty but mentally ill* or nolo contendere to, or is found guilty *or guilty but mentally ill* of, any offense for which the suspension of sentence or the granting of probation is not prohibited by statute, the court may, without entering a judgment of conviction and with the consent of the defendant, suspend further proceedings and place the defendant on probation upon terms and conditions that must include attendance and successful completion of a program established pursuant to NRS 176A.250.

2. If the offense committed by the defendant involved the use or threatened use of force or violence or if the defendant was previously convicted in this State or in any other jurisdiction of a felony that involved the use or threatened use of force or violence, the court may not assign the defendant to the program unless the prosecuting attorney stipulates to the assignment.

3. Upon violation of a term or condition:

(a) The court may enter a judgment of conviction and proceed as provided in the section pursuant to which the defendant was charged.

(b) Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, the court may order the defendant to the custody of the Department of Corrections if the offense is punishable by imprisonment in the state prison.

4. Upon fulfillment of the terms and conditions, the court shall discharge the defendant and dismiss the proceedings against him. Discharge and dismissal pursuant to this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the defendant, in the contemplation of the law, to the status occupied before the arrest, indictment or information. The defendant may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an inquiry made of him for any purpose.

Sec. 27. NRS 177.015 is hereby amended to read as follows:

177.015 The party aggrieved in a criminal action may appeal only as follows:

1. Whether that party is the State or the defendant:

(a) To the district court of the county from a final judgment of the justice court.

(b) To the Supreme Court from an order of the district court granting a motion to dismiss, a motion for acquittal or a motion in arrest of judgment, or granting or refusing a new trial.

(c) To the Supreme Court from a determination of the district court about whether a defendant is mentally retarded that is made as a result of a hearing held pursuant to NRS 174.098. If the Supreme Court entertains the appeal, it shall enter an order staying the criminal proceedings against the defendant for such time as may be required.

2. The State may, upon good cause shown, appeal to the Supreme Court from a pretrial order of the district court granting or denying a motion to suppress evidence made pursuant to NRS 174.125. Notice of the appeal must be filed with the clerk of the district court within 2 judicial days and with the Clerk of the Supreme Court within 5 judicial days after the ruling by the district court. The clerk of the district court shall notify counsel for the defendant or, in the case of a defendant without counsel, the defendant within 2 judicial days after the filing of the notice of appeal. The Supreme Court may establish such procedures as it determines proper in requiring the appellant to make a preliminary showing of the propriety of the appeal and whether there may be a miscarriage of justice if the appeal is not entertained. If the Supreme Court entertains the appeal, or if it otherwise appears

necessary, it may enter an order staying the trial for such time as may be required.

3. The defendant only may appeal from a final judgment or verdict in a criminal case.

4. Except as otherwise provided in subsection 3 of NRS 174.035, the defendant in a criminal case shall not appeal a final judgment or verdict resulting from a plea of guilty *, guilty but mentally ill* or nolo contendere that the defendant entered into voluntarily and with a full understanding of the nature of the charge and the consequences of the plea, unless the appeal is based upon reasonable constitutional, jurisdictional or other grounds that challenge the legality of the proceedings. The Supreme Court may establish procedures to require the defendant to make a preliminary showing of the propriety of the appeal.

Sec. 28. NRS 177.075 is hereby amended to read as follows:

177.075 1. Except where appeal is automatic, an appeal from a district court to the Supreme Court is taken by filing a notice of appeal with the clerk of the district court. Bills of exception and assignments of error in cases governed by this chapter are abolished.

2. When a court imposes sentence upon a defendant who has not pleaded guilty *or guilty but mentally ill* and who is without counsel, the court shall advise the defendant of his right to appeal, and if he so requests, the clerk shall prepare and file forthwith a notice of appeal on his behalf.

3. A notice of appeal must be signed:

(a) By the appellant or appellant′s attorney; or

(b) By the clerk if prepared by him.

Sec. 29. Chapter 178 of NRS is hereby amended by adding thereto the provisions set forth as sections 30 to 39, inclusive, of this act.

Sec. 30. As used in sections 30 to 39, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 31 to 35, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 31. "Administrator" means the Administrator of the Division.

Sec. 32. "Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.

Sec. 33. "Division facility" has the meaning ascribed to it in NRS 433.094.

Sec. 34. "Mental disorder" means a mental illness that results from a psychiatric or neurological disorder that so substantially impairs the mental or emotional functioning of the person as to make care or treatment necessary or advisable for the welfare of the person or for the safety of the person or property of another and includes, without limitation, mental retardation and related conditions.

Sec. 35. "Mentally ill person" means a person who has a mental disorder.

Sec. 36. 1. The Administrator or his designee shall keep each mentally ill person committed to his custody pursuant to NRS 175.539 under observation.

2. A person committed to the custody of the Administrator pursuant to NRS 175.539 is eligible for:

(a) Discharge from commitment if the person establishes by a preponderance of the evidence that he would not be a danger, as a result of any mental disorder, to himself or to the person or property of another if discharged; or

(b) Conditional release from commitment if the person establishes by a preponderance of the evidence that he would not be a danger, as a result of any mental disorder, to himself or to the person or property of another if released from commitment with conditions imposed by the court in consultation with the Division.

3. If a person who is conditionally released from the custody of the Administrator fails to comply with any condition imposed by the court, the court shall issue an order to have the person recommitted to the custody of the Administrator.

Sec. 37. 1. Except as otherwise provided in this section, a court must hold a hearing not later than 60 days after:

(a) A person is committed to the custody of the Administrator pursuant to NRS 175.539; or

(b) The Division or the person committed to the custody of the Administrator files a petition for discharge or conditional release pursuant to section 38 of this act.

2. During the hearing held pursuant to subsection 1, the court shall consider any relevant information that will enable the court to determine whether the person is eligible for discharge or conditional release pursuant to section 36 of this act. The court may postpone the hearing described in this subsection for good cause or upon agreement by the person committed to the custody of the Administrator, the court and the Division.

3. Not later than 21 days before the date of the hearing held pursuant to paragraph (a) of subsection 1 and annually thereafter, the Administrator or his designee shall prepare a written report stating whether, in his opinion, upon medical consultation, the person who was committed to the custody of the Administrator has recovered from his mental disorder or has improved to such an extent that he is no longer a mentally ill person and whether or not, in his opinion, the person should be discharged or conditionally released. If the Administrator or his designee determines that the person has not recovered from his mental disorder or has not improved to such an extent that he is no longer a mentally ill person, the Administrator or his designee shall include in the report his opinion concerning whether:

(a) There is a substantial probability that the person may receive treatment and recover from his mental disorder or improve to such an extent that he is no longer a mentally ill person in the foreseeable future; and

(b) The person is at that time a danger to himself or to society.

4. If the opinion of the Administrator included in the report prepared pursuant to subsection 3 provides that:

(a) The person committed to his custody should not be discharged or conditionally released, the person who is committed may overcome the opinion of the Administrator by proving the elements necessary for discharge or conditional release pursuant to subsection 2 of section 36 of this act by a preponderance of the evidence.

(b) The person committed to his custody should be discharged or conditionally released, the district attorney may overcome the opinion of the Administrator by proving by a preponderance of the evidence that the person continues to be a mentally ill person.

5. Within the period prescribed in subsection 3, the Administrator or his designee shall provide a copy of the report to:

(a) The person committed to the custody of the Administrator and his attorney;

(b) The prosecuting attorney; and

(c) The court.

Sec. 38. 1. A person committed to the custody of the Administrator pursuant to NRS 175.539 may petition the court for discharge or conditional release not sooner than 1 year after the person is committed to the custody of the Administrator and not more than once each year thereafter.

2. The Division may file a petition for the discharge or conditional release of a person committed to the custody of the Administrator pursuant to NRS 175.539 at any time if the petition is accompanied by an affidavit of a physician or licensed psychologist which states that the mental disorder of the person has improved since the date of the most recent hearing concerning the discharge or conditional release of the person such that the physician or licensed psychologist recommends the discharge or conditional release of the person.

3. A person who is committed to the custody of the Administrator pursuant to NRS 175.539 may apply for discharge or conditional release pursuant to subsection 1 by:

(a) Filing a petition for discharge or conditional release with the court that ordered the person committed pursuant to NRS 175.539; and

(b) Providing a copy of the petition to the Division and the prosecuting attorney.

4. The Division may file a petition for discharge or conditional release pursuant to subsection 2 by:

(a) Filing the petition with the court that ordered the person committed to the custody of the Administrator pursuant to NRS 175.539;

(b) Including with the petition an affidavit of a physician or licensed psychologist pursuant to subsection 2; and

(c) Providing a copy of the petition to the person committed to the custody of the Administrator, his attorney and the prosecuting attorney.

Sec. 39. *1. When a person is conditionally released pursuant to sections 30 to 39, inclusive, of this act:*

(a) The State and any of its agents or employees are not liable for any debts or contractual obligations, medical or otherwise, incurred or damages caused by the actions of the person; and

(b) The court shall order the restoration of full civil and legal rights as deemed necessary to facilitate the person's rehabilitation.

2. When a person is conditionally released pursuant to sections 30 to 39, inclusive, of this act, the court shall order the Division to conduct an evaluation of the person as often as is deemed necessary to determine whether the person:

(a) Has complied with the conditions of his release; or

(b) Presents a clear and present danger of harm to himself or others.

3. The court may order a person who is conditionally released pursuant to sections 30 to 39, inclusive, of this act returned to the custody of the Administrator if the court determines that the conditional release is no longer appropriate because that person:

(a) Has violated a condition of his release; or

(b) Presents a clear and present danger of harm to himself or others.

~~[Sec. 29.]~~ *Sec. 40.* NRS 178.388 is hereby amended to read as follows:

178.388 1. Except as otherwise provided in this title, the defendant must be present at the arraignment, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence. A corporation may appear by counsel for all purposes.

2. In prosecutions for offenses not punishable by death:

(a) The defendant's voluntary absence after the trial has been commenced in his presence must not prevent continuing the trial to and including the return of the verdict.

(b) If the defendant was present at the trial through the time he pleads guilty *or guilty but mentally ill* or is found guilty *or guilty but mentally ill* but at the time of his sentencing is incarcerated in another jurisdiction, he may waive his right to be present at the sentencing proceedings and agree to be sentenced in this State in his absence. The defendant's waiver is valid only if it is:

(1) Made knowingly, intelligently and voluntarily after consulting with an attorney licensed to practice in this State;

(2) Signed and dated by the defendant and notarized by a notary public or judicial officer; and

(3) Signed and dated by his attorney after it has been signed by the defendant and notarized.

3. In prosecutions for offenses punishable by fine or by imprisonment for not more than 1 year, or both, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence, if the court determines that the defendant was fully aware of his applicable constitutional rights when he gave his consent.

4. The presence of the defendant is not required at the arraignment or any preceding stage if the court has provided for the use of a closed-circuit television to facilitate communication between the court and the defendant during the proceeding. If closed-circuit television is provided for, members of the news media may observe and record the proceeding from both locations unless the court specifically provides otherwise.

5. The defendant's presence is not required at the settling of jury instructions.

Sec. 41. *NRS 178.399 is hereby amended to read as follows:*

178.399 As used in NRS ~~[178.400]~~ *178.399* to 178.460, inclusive, unless the context otherwise requires, "treatment to competency" means treatment provided to a defendant to attempt to cause him to attain competency to stand trial or receive pronouncement of judgment.

~~[Sec. 30.]~~ *Sec. 42.* NRS 179.225 is hereby amended to read as follows:

179.225 1. If the punishment of the crime is the confinement of the criminal in prison, the expenses must be paid from money appropriated to the Office of the Attorney General for that purpose, upon approval by the State Board of Examiners. After the appropriation is exhausted, the expenses must be paid from the Reserve for Statutory Contingency Account upon approval by the State Board of Examiners. In all other cases, they must be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses are:

(a) If the prisoner is returned to this State from another state, the fees paid to the officers of the state on whose governor the requisition is made;

(b) If the prisoner is returned to this State from a foreign country or jurisdiction, the fees paid to the officers and agents of this State or the United States; or

(c) If the prisoner is temporarily returned for prosecution to this State from another state pursuant to this chapter or chapter 178 of NRS and is then returned to the sending state upon completion of the prosecution, the fees paid to the officers and agents of this State,

➥ and the necessary traveling expenses and subsistence allowances in the amounts authorized by NRS 281.160 incurred in returning the prisoner.

2. If a person is returned to this State pursuant to this chapter or chapter 178 of NRS and is convicted of, or pleads guilty *, guilty but mentally ill* or nolo contendere to *,* the criminal charge for which he was returned or a lesser criminal charge, the court shall conduct an investigation of the financial status of the person to determine his ability to make restitution. In conducting the investigation, the court shall determine if the person is able to pay any existing obligations for:

(a) Child support;

(b) Restitution to victims of crimes; and

(c) Any administrative assessment required to be paid pursuant to NRS 62E.270, 176.059, 176.0611, 176.0613 and 176.062.

3. If the court determines that the person is financially able to pay the obligations described in subsection 2, it shall, in addition to any other sentence it may impose, order the person to make restitution for the expenses incurred by the Attorney General or other governmental entity in returning him to this State. The court shall not order the person to make restitution if payment of restitution will prevent him from paying any existing obligations described in subsection 2. Any amount of restitution remaining unpaid constitutes a civil liability arising upon the date of the completion of his sentence.

4. The Attorney General may adopt regulations to carry out the provisions of this section.

~~[Sec. 31.]~~ *Sec. 43.* NRS 1.4675 is hereby amended to read as follows:

1.4675 1. The Commission shall suspend a justice or judge from the exercise of office with salary:

(a) While there is pending an indictment or information charging the justice or judge with a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States; or

(b) When the justice or judge has been adjudged mentally incompetent or insane.

2. The Commission may suspend a justice or judge from the exercise of office without salary if the justice or judge:

(a) Pleads guilty *, guilty but mentally ill* or no contest to a charge of; or

(b) Is found guilty *or guilty but mentally ill* of,

➥ a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States. If the conviction is later reversed, the justice or judge must be paid his salary for the period of suspension.

3. The Commission may suspend a justice or judge from the exercise of office with salary if the Commission determines, pending a final determination in a judicial disciplinary proceeding, that the justice or judge poses a substantial threat of serious harm to the public or to the administration of justice.

4. A justice or judge suspended pursuant to this section may appeal the suspension to the Supreme Court for reconsideration of the order.

5. The Commission may suspend a justice or judge pursuant to this section only in accordance with its procedural rules.

~~[Sec. 32.]~~ *Sec. 44.* NRS 33.400 is hereby amended to read as follows:

33.400 1. In addition to any other remedy provided by law, the parent or guardian of a child may petition any court of competent jurisdiction on behalf of the child for a temporary or extended order against a person who is 18 years of age or older and who the parent or guardian reasonably believes has committed or is committing a crime involving:

(a) Physical or mental injury to the child of a nonaccidental nature; or

(b) Sexual abuse or sexual exploitation of the child.

2. If such an order on behalf of a child is granted, the court may direct the person who allegedly committed or is committing the crime to:

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

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the child and any other person specifically named by the court, who may include, without limitation, a member of the family or the household of the child.

(c) Comply with any other restriction which the court deems necessary to protect the child or to protect any other person specifically named by the court , who may include, without limitation, a member of the family or the household of the child.

3. If a defendant charged with committing a crime described in subsection 1 is released from custody before trial or is found guilty *or guilty but mentally ill* during the trial, the court may issue a temporary or extended order or provide as a condition of the release or sentence that the defendant:

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

(b) Refrain from contacting, intimidating, threatening or otherwise interfering with the child against whom the alleged crime was committed and any other person specifically named by the court, who may include, without limitation, a member of the family or the household of the child.

(c) Comply with any other restriction which the court deems necessary to protect the child or to protect any other person specifically named by the court , who may include, without limitation, a member of the family or the household of the child.

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

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

(b) A hearing is held on the petition.

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

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

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

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

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

(a) Be in writing;

(b) Be personally served on the person to whom it is directed; and

(c) Contain the warning that violation of the order:

(1) Subjects the person to immediate arrest.

(2) Is a gross misdemeanor if the order is a temporary order.

(3) Is a category C felony if the order is an extended order.

~~[Sec. 33.]~~ *Sec. 45.* NRS 33.440 is hereby amended to read as follows:

33.440 1. Upon the request of the parent or guardian of a child, the prosecuting attorney in any trial brought against a person for a crime described in subsection 1 of NRS 33.400 shall inform the parent or guardian of the final disposition of the case.

2. If the defendant is found guilty *or guilty but mentally ill* and the court issues an order or provides a condition of his sentence restricting the ability of the defendant to have contact with the child against whom the crime was committed or witnesses, the clerk of the court shall:

(a) Keep a record of the order or condition of the sentence; and

(b) Provide a certified copy of the order or condition of the sentence to the parent or guardian of the child and other persons named in the order.

~~[Sec. 34.]~~ *Sec. 46.* NRS 34.735 is hereby amended to read as follows:

34.735 A petition must be in substantially the following form, with appropriate modifications if the petition is filed in the Supreme Court:

Case No. .....

Dept. No. .....

IN THE ..... JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA IN AND FOR THE COUNTY OF .....

.....

Petitioner,

v. PETITION FOR WRIT OF HABEAS CORPUS (POSTCONVICTION)

.....

Respondent.

INSTRUCTIONS:

(1) This petition must be legibly handwritten or typewritten, signed by the petitioner and verified.

(2) Additional pages are not permitted except where noted or with respect to the facts which you rely upon to support your grounds for relief. No citation of authorities need be furnished. If briefs or arguments are submitted, they should be submitted in the form of a separate memorandum.

(3) If you want an attorney appointed, you must complete the Affidavit in Support of Request to Proceed in Forma Pauperis. You must have an authorized officer at the prison complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.

(4) You must name as respondent the person by whom you are confined or restrained. If you are in a specific institution of the Department of Corrections, name the warden or head of the institution. If you are not in a specific institution of the Department but within its custody, name the Director of the Department of Corrections.

(5) You must include all grounds or claims for relief which you may have regarding your conviction or sentence. Failure to raise all grounds in this petition may preclude you from filing future petitions challenging your conviction and sentence.

(6) You must allege specific facts supporting the claims in the petition you file seeking relief from any conviction or sentence. Failure to allege specific facts rather than just conclusions may cause your petition to be dismissed. If your petition contains a claim of ineffective assistance of counsel, that claim will operate to waive the attorney-client privilege for the proceeding in which you claim your counsel was ineffective.

(7) When the petition is fully completed, the original and one copy must be filed with the clerk of the state district court for the county in which you were convicted. One copy must be mailed to the respondent, one copy to the Attorney General′s Office, and one copy to the district attorney of the county in which you were convicted or to the original prosecutor if you are challenging your original conviction or sentence. Copies must conform in all particulars to the original submitted for filing.

PETITION

1. Name of institution and county in which you are presently imprisoned or where and how you are presently restrained of your liberty: .....
.....

2. Name and location of court which entered the judgment of conviction under attack: .....

3. Date of judgment of conviction: .....

4. Case number: .....

5. (a) Length of sentence: .....
.....

(b) If sentence is death, state any date upon which execution is scheduled:.....

6. Are you presently serving a sentence for a conviction other than the conviction under attack in this motion? Yes ..... No .....
If ″yes,″ list crime, case number and sentence being served at this time: .....
.....
.....

7. Nature of offense involved in conviction being challenged: .....
.....

8. What was your plea? (check one)

(a) Not guilty .....

(b) Guilty .....

(c) *Guilty but mentally ill* .....

(d) Nolo contendere .....

9. If you entered a plea of guilty *or guilty but mentally ill* to one count of an indictment or information, and a plea of not guilty to another count of an

indictment or information, or if a plea of guilty *or guilty but mentally ill* was negotiated, give details: .....
.....
.....

10. If you were found guilty *or guilty but mentally ill* after a plea of not guilty, was the finding made by: (check one)

(a) Jury .....

(b) Judge without a jury .....

11. Did you testify at the trial? Yes ..... No .....

12. Did you appeal from the judgment of conviction? Yes ..... No .....

13. If you did appeal, answer the following:

(a) Name of court: .....

(b) Case number or citation: .....

(c) Result: .....

(d) Date of result: .....

(Attach copy of order or decision, if available.)

14. If you did not appeal, explain briefly why you did not: .....
.....
.....

15. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications or motions with respect to this judgment in any court, state or federal? Yes ..... No .....

16. If your answer to No. 15 was ″yes,″ give the following information:

(a) (1) Name of court: .....

(2) Nature of proceeding: .....
.....

(3) Grounds raised: .....
.....
.....

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ..... No .....

(5) Result: .....

(6) Date of result: .....

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: .....
.....

(b) As to any second petition, application or motion, give the same information:

(1) Name of court: .....

(2) Nature of proceeding: .....

(3) Grounds raised: .....

(4) Did you receive an evidentiary hearing on your petition, application or motion? Yes ..... No .....

(5) Result: .....

(6) Date of result: .....

(7) If known, citations of any written opinion or date of orders entered pursuant to such result: .....

(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

(1) First petition, application or motion? Yes ..... No .....
Citation or date of decision: .....

(2) Second petition, application or motion? Yes ..... No .....
Citation or date of decision: .....

(3) Third or subsequent petitions, applications or motions? Yes ..... No .....
Citation or date of decision: .....

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) .....
.....
.....

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other postconviction proceeding? If so, identify:

(a) Which of the grounds is the same: .....
.....

(b) The proceedings in which these grounds were raised: .....
.....

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) ..
.....

18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) .....
.....

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is

8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) .....
.....

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes ..... No .....
If yes, state what court and the case number: .....
.....

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal: .....
.....

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack? Yes ..... No .....
If yes, specify where and when it is to be served, if you know: .....
.....

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary you may attach pages stating additional grounds and facts supporting same.

(a) Ground one: .....
.....
Supporting FACTS (Tell your story briefly without citing cases or law.): ....
.....
.....

(b) Ground two: .....
.....
Supporting FACTS (Tell your story briefly without citing cases or law.): ....
.....
.....

(c) Ground three: .....
.....
Supporting FACTS (Tell your story briefly without citing cases or law.): ....
.....
.....

(d) Ground four: .....
.....
.....
Supporting FACTS (Tell your story briefly without citing cases or law.): ....
.....
.....

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding.

EXECUTED at ..... on the ..... day of the month of ..... of the year .....

.....
Signature of petitioner

.....
Address

.....
Signature of attorney (if any)

.....
Attorney for petitioner

.....
Address

VERIFICATION

Under penalty of perjury, the undersigned declares that he is the petitioner named in the foregoing petition and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and as to such matters he believes them to be true.

.....
Petitioner

.....
Attorney for petitioner

CERTIFICATE OF SERVICE BY MAIL

I, ..., hereby certify , pursuant to N.R.C.P. 5(b), that on this ..... day of the month of ..... of the year ....., I mailed a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS addressed to:

.....
Respondent prison or jail official

.....
Address

.....
Attorney General
Heroes' Memorial Building
Capitol Complex
Carson City, Nevada 89710

.....
District Attorney of County of Conviction

.....
Address

.....
Signature of Petitioner

~~[Sec. 35.]~~ *Sec. 47.* NRS 34.810 is hereby amended to read as follows:

34.810 1. The court shall dismiss a petition if the court determines that:

(a) The petitioner's conviction was upon a plea of guilty *or guilty but mentally ill* and the petition is not based upon an allegation that the plea was involuntarily or unknowingly entered or that the plea was entered without effective assistance of counsel.

(b) The petitioner's conviction was the result of a trial and the grounds for the petition could have been:

(1) Presented to the trial court;

(2) Raised in a direct appeal or a prior petition for a writ of habeas corpus or postconviction relief; or

(3) Raised in any other proceeding that the petitioner has taken to secure relief from his conviction and sentence,

➥ unless the court finds both cause for the failure to present the grounds and actual prejudice to the petitioner.

2. A second or successive petition must be dismissed if the judge or justice determines that it fails to allege new or different grounds for relief and that the prior determination was on the merits or, if new and different grounds are alleged, the judge or justice finds that the failure of the petitioner to assert those grounds in a prior petition constituted an abuse of the writ.

3. Pursuant to subsections 1 and 2, the petitioner has the burden of pleading and proving specific facts that demonstrate:

(a) Good cause for the petitioner's failure to present the claim or for presenting the claim again; and

(b) Actual prejudice to the petitioner.

➥ The petitioner shall include in the petition all prior proceedings in which he challenged the same conviction or sentence.

4. The court may dismiss a petition that fails to include any prior proceedings of which the court has knowledge through the record of the court or through the pleadings submitted by the respondent.

~~[Sec. 36.]~~ *Sec. 48.* NRS 41B.070 is hereby amended to read as follows:

41B.070 "Convicted" and "conviction" mean a judgment based upon:

1. A plea of guilty *, guilty but mentally ill* or nolo contendere;

2. A finding of ~~[guilt]~~ *guilty or guilty but mentally ill* by a jury or a court sitting without a jury;

3. An adjudication of delinquency or finding of ~~[guilt]~~ *guilty or guilty but mentally ill* by a court having jurisdiction over juveniles; or

4. Any other admission or finding of ~~[guilt]~~ *guilty or guilty but mentally ill* in a criminal action or a proceeding in a court having jurisdiction over juveniles.

~~[Sec. 37.]~~ *Sec. 49.* NRS 48.125 is hereby amended to read as follows:

48.125 1. Evidence of a plea of guilty ~~[,]~~ *or guilty but mentally ill,* later withdrawn, or of an offer to plead guilty *or guilty but mentally ill* to the crime charged or any other crime is not admissible in a criminal proceeding involving the person who made the plea or offer.

2. Evidence of a plea of nolo contendere or of an offer to plead nolo contendere to the crime charged or any other crime is not admissible in a civil or criminal proceeding involving the person who made the plea or offer.

~~[Sec. 38.]~~ *Sec. 50.* NRS 50.068 is hereby amended to read as follows:

50.068 1. A defendant is not incompetent to be a witness solely by reason of the fact that he enters into an agreement with the prosecuting attorney in which he agrees to testify against another defendant in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for a recommendation of a reduced sentence.

2. The testimony of the defendant who is testifying may be admitted whether or not he has entered his plea or been sentenced pursuant to the agreement with the prosecuting attorney.

~~[Sec. 39.]~~ *Sec. 51.* NRS 51.295 is hereby amended to read as follows:

51.295 1. Evidence of a final judgment, entered after trial or upon a plea of guilty ~~[,]~~ *or guilty but mentally ill,* but not upon a plea of nolo contendere, adjudging a person guilty of a crime punishable by death or imprisonment in excess of 1 year ~~[,]~~ is not inadmissible under the hearsay rule to prove any fact essential to sustain the judgment.

2. This section does not make admissible, when offered by the State in a criminal prosecution for purposes other than impeachment, a judgment against a person other than the accused.

3. The pendency of an appeal may be shown but does not affect admissibility.

~~[Sec. 40.]~~ *Sec. 52.* NRS 200.485 is hereby amended to read as follows:

200.485 1. Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

➥ The person shall be further punished by a fine of not less than $200, but not more than $1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

➥ The person shall be further punished by a fine of not less than $500, but not more than $1,000.

(c) For the third and any subsequent offense within 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:

(a) Except as otherwise provided in this subsection, for the first offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

(b) Except as otherwise provided in this subsection, for the second offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

➥ If the person resides more than 70 miles from the nearest location at which counseling services are available, the court may allow the person to participate in counseling sessions in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470 every other week for the number of months required pursuant to paragraph (a) or (b) so long as the number of hours of counseling is not less than 6 hours per month. If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

3. An offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

4. In addition to any other fine or penalty, the court shall order such a person to pay an administrative assessment of $35. Any money so collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

5. In addition to any other penalty, the court may require such a person to participate, at his expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by the Health Division of the Department of Health and Human Services.

6. If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services. If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of his ability to pay.

7. If a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. A court shall not grant probation to and, except as otherwise provided in NRS 4.373 and 5.055, a court shall not suspend the sentence of such a person.

8. As used in this section:

(a) ″Agency which provides child welfare services″ has the meaning ascribed to it in NRS 432B.030.

(b) ″Battery″ has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(c) ″Offense″ includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

~~[Sec. 41.]~~ *Sec. 53.* NRS 200.485 is hereby amended to read as follows:

200.485 1. Unless a greater penalty is provided pursuant to NRS 200.481, a person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018:

(a) For the first offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 2 days, but not more than 6 months; and

(2) Perform not less than 48 hours, but not more than 120 hours, of community service.

➥ The person shall be further punished by a fine of not less than $200, but not more than $1,000. A term of imprisonment imposed pursuant to this paragraph may be served intermittently at the discretion of the judge or justice of the peace, except that each period of confinement must be not less than 4 consecutive hours and must occur at a time when the person is not required to be at his place of employment or on a weekend.

(b) For the second offense within 7 years, is guilty of a misdemeanor and shall be sentenced to:

(1) Imprisonment in the city or county jail or detention facility for not less than 10 days, but not more than 6 months; and

(2) Perform not less than 100 hours, but not more than 200 hours, of community service.

➥ The person shall be further punished by a fine of not less than $500, but not more than $1,000.

(c) For the third and any subsequent offense within 7 years, is guilty of a category C felony and shall be punished as provided in NRS 193.130.

2. In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to NRS 33.018, the court shall:

(a) For the first offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for not less than 6 months, but not more than 12 months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

(b) For the second offense within 7 years, require him to participate in weekly counseling sessions of not less than 1 1/2 hours per week for 12 months, at his expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

➥ If the person resides in this State but the nearest location at which counseling services are available is in another state, the court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470.

3. An offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

4. In addition to any other fine or penalty, the court shall order such a person to pay an administrative assessment of $35. Any money so collected must be paid by the clerk of the court to the State Controller on or before the fifth day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

5. In addition to any other penalty, the court may require such a person to participate, at his expense, in a program of treatment for the abuse of alcohol or drugs that has been certified by the Health Division of the Department of Health and Human Services.

6. If it appears from information presented to the court that a child under the age of 18 years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to NRS 33.018, the court may refer the child to an agency which provides child welfare services.

If the court refers a child to an agency which provides child welfare services, the court shall require the person convicted of a battery which constitutes domestic violence pursuant to NRS 33.018 to reimburse the agency for the costs of any services provided, to the extent of his ability to pay.

7. If a person is charged with committing a battery which constitutes domestic violence pursuant to NRS 33.018, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. A court shall not grant probation to and, except as otherwise provided in NRS 4.373 and 5.055, a court shall not suspend the sentence of such a person.

8. As used in this section:

(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(b) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(c) "Offense" includes a battery which constitutes domestic violence pursuant to NRS 33.018 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

~~[Sec. 42.]~~ *Sec. 54.* NRS 202.270 is hereby amended to read as follows:

202.270 1. A person who destroys, or attempts to destroy, with dynamite, nitroglycerine, gunpowder or other high explosive, any dwelling house or other building, knowing or having reason to believe that a human being is therein at the time, is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life without the possibility of parole;

(b) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(c) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served,

➥ in the discretion of the jury, or of the court upon a plea of guilty ~~[.]~~ *or guilty but mentally ill.*

2. A person who conspires with others to commit the offense described in subsection 1 shall be punished in the same manner.

~~[Sec. 43.]~~ *Sec. 55.* NRS 202.885 is hereby amended to read as follows:

202.885 1. A person may not be prosecuted or convicted pursuant to NRS 202.882 unless a court in this State or any other jurisdiction has entered a judgment of conviction against a culpable actor for:

(a) The violent or sexual offense against the child; or

(b) Any other offense arising out of the same facts as the violent or sexual offense against the child.

2. For any violation of NRS 202.882, an indictment must be found or an information or complaint must be filed within 1 year after the date on which:

(a) A court in this State or any other jurisdiction has entered a judgment of conviction against a culpable actor as provided in subsection 1; or

(b) The violation is discovered,

➥ whichever occurs later.

3. For the purposes of this section:

(a) A court in "any other jurisdiction" includes, without limitation, a tribal court or a court of the United States or the Armed Forces of the United States.

(b) "Convicted" and "conviction" mean a judgment based upon:

(1) A plea of guilty *, guilty but mentally ill* or nolo contendere;

(2) A finding of ~~[guilt]~~ *guilty or guilty but mentally ill* by a jury or a court sitting without a jury;

(3) An adjudication of delinquency or finding of ~~[guilt]~~ *guilty or guilty but mentally ill* by a court having jurisdiction over juveniles; or

(4) Any other admission or finding of ~~[guilt]~~ *guilty or guilty but mentally ill* in a criminal action or a proceeding in a court having jurisdiction over juveniles.

(c) A court "enters" a judgment of conviction against a person on the date on which guilt is admitted, adjudicated or found, whether or not:

(1) The court has imposed a sentence, a penalty or other sanction for the conviction; or

(2) The person has exercised any right to appeal the conviction.

(d) "Culpable actor" means a person who:

(1) Causes or perpetrates an unlawful act;

(2) Aids, abets, commands, counsels, encourages, hires, induces, procures or solicits another person to cause or perpetrate an unlawful act; or

(3) Is a principal in any degree, accessory before or after the fact, accomplice or conspirator to an unlawful act.

~~[Sec. 44.]~~ *Sec. 56.* NRS 207.016 is hereby amended to read as follows:

207.016 1. A conviction pursuant to NRS 207.010, 207.012 or 207.014 operates only to increase, not to reduce, the sentence otherwise provided by law for the principal crime.

2. If a count pursuant to NRS 207.010, 207.012 or 207.014 is included in an information charging the primary offense, each previous conviction must be alleged in the accusatory pleading, but no such conviction may be alluded to on trial of the primary offense, nor may any allegation of the conviction be read in the presence of a jury trying the offense or a grand jury considering an indictment for the offense. A count pursuant to NRS 207.010, 207.012 or 207.014 may be separately filed after conviction of the primary offense, but if it is so filed, sentence must not be imposed, or the hearing required by subsection 3 held, until 15 days after the separate filing.

3. If a defendant charged pursuant to NRS 207.010, 207.012 or 207.014 pleads guilty *or guilty but mentally ill* to , or is found guilty *or guilty but mentally ill* of , the primary offense but denies any previous conviction charged, the court shall determine the issue of the previous conviction after hearing all relevant evidence presented on the issue by the prosecution and the defendant. At such a hearing, the defendant may not challenge the validity of a previous conviction. The court shall impose sentence:

(a) Pursuant to NRS 207.010 upon finding that the defendant has suffered previous convictions sufficient to support an adjudication of habitual criminality;

(b) Pursuant to NRS 207.012 upon finding that the defendant has suffered previous convictions sufficient to support an adjudication of habitual felon; or

(c) Pursuant to NRS 207.014 upon finding that the defendant has suffered previous convictions sufficient to support an adjudication of habitually fraudulent felon.

4. Nothing in the provisions of this section, NRS 207.010, 207.012 or 207.014 limits the prosecution in introducing evidence of prior convictions for purposes of impeachment.

5. For the purposes of NRS 207.010, 207.012 and 207.014, a certified copy of a felony conviction is prima facie evidence of conviction of a prior felony.

6. Nothing in the provisions of this section, NRS 207.010, 207.012 or 207.014 prohibits a court from imposing an adjudication of habitual criminality, adjudication of habitual felon or adjudication of habitually fraudulent felon based upon a stipulation of the parties.

~~[Sec. 45.]~~ *Sec. 57.* NRS 207.193 is hereby amended to read as follows:

207.193 1. Except as otherwise provided in subsection 4, if a person is convicted of coercion or attempted coercion in violation of paragraph (a) of subsection 2 of NRS 207.190, the court shall, at the request of the prosecuting attorney, conduct a separate hearing to determine whether the offense was sexually motivated. A request for such a hearing may not be submitted to the court unless the prosecuting attorney, not less than 72 hours before the commencement of the trial, files and serves upon the defendant a written notice of his intention to request such a hearing.

2. A hearing requested pursuant to subsection 1 must be conducted before:

(a) The court imposes its sentence; or

(b) A separate penalty hearing is conducted.

3. At the hearing, only evidence concerning the question of whether the offense was sexually motivated may be presented. The prosecuting attorney must prove beyond a reasonable doubt that the offense was sexually motivated.

4. A person may stipulate that his offense was sexually motivated before a hearing held pursuant to subsection 1 or as part of an agreement to plead nolo contendere *, guilty* or guilty ~~[.]~~ *but mentally ill.*

5. The court shall enter in the record:

(a) Its finding from a hearing held pursuant to subsection 1; or

(b) A stipulation made pursuant to subsection 4.

6. For the purposes of this section, an offense is "sexually motivated" if one of the purposes for which the person committed the offense was his sexual gratification.

~~[Sec. 46.]~~ *Sec. 58.* NRS 212.189 is hereby amended to read as follows:

212.189 1. Except as otherwise provided in subsection 9, a prisoner who is in lawful custody or confinement, other than residential confinement, shall not knowingly:

(a) Store or stockpile any human excrement or bodily fluid;

(b) Sell, supply or provide any human excrement or bodily fluid to any other person;

(c) Buy, receive or acquire any human excrement or bodily fluid from any other person; or

(d) Use, propel, discharge, spread or conceal, or cause to be used, propelled, discharged, spread or concealed, any human excrement or bodily fluid:

(1) With the intent to have the excrement or bodily fluid come into physical contact with any portion of the body of an officer or employee of a prison or any other person, whether or not such physical contact actually occurs; or

(2) Under circumstances in which the excrement or bodily fluid is reasonably likely to come into physical contact with any portion of the body of an officer or employee of a prison or any other person, whether or not such physical contact actually occurs.

2. Except as otherwise provided in subsection 3, if a prisoner violates any provision of subsection 1, the prisoner is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

3. If a prisoner violates any provision of paragraph (d) of subsection 1 and, at the time of the offense, the prisoner knew that any portion of the excrement or bodily fluid involved in the offense contained a communicable disease that causes or is reasonably likely to cause substantial bodily harm, whether or not the communicable disease was transmitted to a victim as a result of the offense, the prisoner is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served,

➥ and may be further punished by a fine of not more than $50,000.

4. A sentence imposed upon a prisoner pursuant to subsection 2 or 3:

(a) Is not subject to suspension or the granting of probation; and

(b) Must run consecutively after the prisoner has served any sentences imposed upon him for the offense or offenses for which the prisoner was in lawful custody or confinement when he violated the provisions of subsection 1.

5. In addition to any other penalty, the court shall order a prisoner who violates any provision of paragraph (d) of subsection 1 to reimburse the appropriate person or governmental body for the cost of any examinations or testing:

(a) Conducted pursuant to paragraphs (a) and (b) of subsection 7; or

(b) Paid for pursuant to subparagraph (2) of paragraph (c) of subsection 7.

6. The warden, sheriff, administrator or other person responsible for administering a prison shall immediately and fully investigate any act described in subsection 1 that is reported or suspected to have been committed in the prison.

7. If there is probable cause to believe that an act described in paragraph (d) of subsection 1 has been committed in a prison:

(a) Each prisoner believed to have committed the act or to have been the bodily source of any portion of the excrement or bodily fluid involved in the act must submit to any appropriate examinations and testing to determine whether each such prisoner has any communicable disease.

(b) If possible, a sample of the excrement or bodily fluid involved in the act must be recovered and tested to determine whether any communicable disease is present in the excrement or bodily fluid.

(c) If the excrement or bodily fluid involved in the act came into physical contact with any portion of the body of an officer or employee of a prison or any other person:

(1) The results of any examinations or testing conducted pursuant to paragraphs (a) and (b) must be provided to each such officer, employee or other person; and

(2) For each such officer or employee, the person or governmental body operating the prison where the act was committed shall pay for any appropriate examinations and testing requested by the officer or employee to determine whether a communicable disease was transmitted to him as a result of the act.

(d) The results of the investigation conducted pursuant to subsection 6 and the results of any examinations or testing conducted pursuant to paragraphs (a) and (b) must be submitted to the district attorney of the county in which the act was committed or to the Office of the Attorney General for possible prosecution of each prisoner who committed the act.

8. If a prisoner is charged with committing an act described in paragraph (d) of subsection 1 and a victim or an intended victim of the act was an officer or employee of a prison, the prosecuting attorney shall not dismiss the charge in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless the prosecuting attorney knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

9. The provisions of this section do not apply to a prisoner who commits an act described in subsection 1 if the act:

(a) Is otherwise lawful and is authorized by the warden, sheriff, administrator or other person responsible for administering the prison, or his designee, and the prisoner performs the act in accordance with the directions or instructions given to him by that person;

(b) Involves the discharge of human excrement or bodily fluid directly from the body of the prisoner and the discharge is the direct result of a temporary or permanent injury, disease or medical condition afflicting the prisoner that prevents the prisoner from having physical control over the discharge of his own excrement or bodily fluid; or

(c) Constitutes voluntary sexual conduct with another person in violation of the provisions of NRS 212.187.

~~[Sec. 47.]~~ *Sec. 59.* NRS 244.3485 is hereby amended to read as follows:

244.3485 1. The board of county commissioners of each county shall, by ordinance, require each person who wishes to engage in the business of a secondhand dealer in an unincorporated area of the county to obtain a license issued by the board before he engages in the business of a secondhand dealer.

2. The ordinance must require the applicant to submit:

(a) An application for a license to the board of county commissioners in a form prescribed by the board.

(b) With his application a complete set of his fingerprints and written permission authorizing the board to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. The board of county commissioners shall not issue a license pursuant to this section to an applicant who has been convicted of, or entered a plea of guilty *, guilty but mentally ill* or nolo contendere to, a felony involving moral turpitude or related to the qualifications, functions or duties of a secondhand dealer.

4. The board of county commissioners may:

(a) Establish and collect a fee for the issuance or renewal of a license;

(b) Establish and collect a fee to cover the costs of the investigation of an applicant, including a fee to process the fingerprints of the applicant;

(c) Place conditions, limitations or restrictions upon the license;

(d) Establish any other requirements necessary to carry out the provisions of this section; or

(e) Enact an ordinance which covers the same or similar subject matter included in the provisions of NRS 647.140 and which provides that any person who violates any provision of that ordinance shall be punished:

(1) For the first offense, by a fine of not more than $500.

(2) For the second offense, by a fine of not more than $1,000.

(3) For the third offense, by a fine of not more than $2,000 and by revocation of the license of the secondhand dealer.

~~[Sec. 48.]~~ *Sec. 60.* NRS 244.3695 is hereby amended to read as follows:

244.3695 1. The board of county commissioners shall create a graffiti reward and abatement fund. The money in the fund must be used to pay a reward to a person who, in response to the offer of a reward, provides information which results in the identification, apprehension and conviction of a person who violates a county ordinance that prohibits graffiti or other defacement of property.

2. When a defendant pleads or is found guilty *or guilty but mentally ill* of violating a county ordinance that prohibits graffiti or other defacement of property, the court shall include an administrative assessment of $250 for each violation in addition to any other fine or penalty. The money collected must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for credit to the graffiti reward and abatement fund.

3. If sufficient money is available in the graffiti reward and abatement fund, a county law enforcement agency may offer a reward, not to exceed $1,000, for information leading to the identification, apprehension and conviction of a person who violates a county ordinance that prohibits graffiti or other defacement of property. The reward must be paid out of the graffiti reward and abatement fund upon approval of the board of county commissioners.

~~[Sec. 49.]~~ *Sec. 61.* NRS 268.0974 is hereby amended to read as follows:

268.0974 1. The governing body of an incorporated city in this State, whether organized pursuant to general law or special charter shall, by ordinance, require each person who wishes to engage in the business of a secondhand dealer in the incorporated city to obtain a license issued by the governing body before he engages in the business of a secondhand dealer.

2. The ordinance must require the applicant to submit:

(a) An application for a license to the governing body of the incorporated city in a form prescribed by the governing body.

(b) With his application a complete set of his fingerprints and written permission authorizing the governing body of the incorporated city to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

3. The governing body of the incorporated city shall not issue a license pursuant to this section to an applicant who has been convicted of, or entered

a plea of guilty *, guilty but mentally ill* or nolo contendere to, a felony involving moral turpitude or related to the qualifications, functions or duties of a secondhand dealer.

4. The governing body of the incorporated city may:

(a) Establish and collect a fee for the issuance or renewal of a license;

(b) Establish and collect a fee to cover the costs of the investigation of an applicant, including a fee to process the fingerprints of the applicant;

(c) Place conditions, limitations or restrictions upon the license;

(d) Establish any other requirements necessary to carry out the provisions of this section; or

(e) Enact an ordinance which covers the same or similar subject matter included in the provisions of NRS 647.140 and which provides that any person who violates any provision of that ordinance shall be punished:

(1) For the first offense, by a fine of not more than $500.

(2) For the second offense, by a fine of not more than $1,000.

(3) For the third offense, by a fine of not more than $2,000 and by revocation of the license of the secondhand dealer.

~~[Sec. 50.]~~ *Sec. 62.* NRS 268.4085 is hereby amended to read as follows:

268.4085 1. The governing body of each city shall create a graffiti reward and abatement fund. The money in the fund must be used to pay a reward to a person who, in response to the offer of a reward, provides information which results in the identification, apprehension and conviction of a person who violated a city ordinance that prohibits graffiti or other defacement of property.

2. When a defendant pleads or is found guilty *or guilty but mentally ill* of violating a city ordinance that prohibits graffiti or other defacement of property, the court shall include an administrative assessment of $250 for each violation in addition to any other fine or penalty. The money collected must be paid by the clerk of the court to the city treasurer on or before the fifth day of each month for credit to the graffiti reward and abatement fund.

3. If sufficient money is available in the graffiti reward and abatement fund, a law enforcement agency for the city may offer a reward, not to exceed $1,000, for information leading to the identification, apprehension and conviction of a person who violates a city ordinance that prohibits graffiti or other defacement of property. The reward must be paid out of the graffiti reward and abatement fund upon approval of the governing body of the city.

~~[Sec. 51.]~~ *Sec. 63.* NRS 357.170 is hereby amended to read as follows:

357.170 1. An action pursuant to this chapter may not be commenced more than 3 years after the date of discovery of the fraudulent activity by the Attorney General or more than 5 years after the fraudulent activity occurred, whichever is earlier. Within those limits, an action may be based upon fraudulent activity that occurred before October 1, 1999.

2. In an action pursuant to this chapter, the standard of proof is a preponderance of the evidence. A finding of ~~[guilt]~~ *guilty or guilty but mentally ill* in a criminal proceeding charging false statement or fraud, whether upon a verdict of guilty *or guilty but mentally ill* or a plea of guilty *, guilty but mentally ill* or nolo contendere, estops the person found guilty *or guilty but mentally ill* from denying an essential element of that offense in an action pursuant to this chapter based upon the same transaction as the criminal proceeding.

~~[Sec. 52.]~~ *Sec. 64.* NRS 453.3363 is hereby amended to read as follows:

453.3363 1. If a person who has not previously been convicted of any offense pursuant to NRS 453.011 to 453.552, inclusive, or pursuant to any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic substances tenders a plea of guilty, *guilty but mentally ill,* nolo contendere or similar plea to a charge pursuant to subparagraph (1) of paragraph (a) of subsection 2 of NRS 453.3325, subsection 2 or 3 of NRS 453.336, NRS 453.411 or 454.351, or is found guilty *or guilty but mentally ill* of one of those charges, the court, without entering a judgment of conviction and with the consent of the accused, may suspend further proceedings and place him on probation upon terms and conditions that must include attendance and successful completion of an educational program or, in the case of a person dependent upon drugs, of a program of treatment and rehabilitation pursuant to NRS 453.580.

2. Upon violation of a term or condition, the court may enter a judgment of conviction and proceed as provided in the section pursuant to which the accused was charged. Notwithstanding the provisions of paragraph (e) of subsection 2 of NRS 193.130, upon violation of a term or condition, the court may order the person to the custody of the Department of Corrections.

3. Upon fulfillment of the terms and conditions, the court shall discharge the accused and dismiss the proceedings against him. A nonpublic record of the dismissal must be transmitted to and retained by the Division of Parole and Probation of the Department of Public Safety solely for the use of the courts in determining whether, in later proceedings, the person qualifies under this section.

4. Except as otherwise provided in subsection 5, discharge and dismissal under this section is without adjudication of guilt and is not a conviction for purposes of this section or for purposes of employment, civil rights or any statute or regulation or license or questionnaire or for any other public or private purpose, but is a conviction for the purpose of additional penalties imposed for second or subsequent convictions or the setting of bail. Discharge and dismissal restores the person discharged, in the contemplation of the law, to the status occupied before the arrest, indictment or information. He may not be held thereafter under any law to be guilty of perjury or otherwise giving a false statement by reason of failure to recite or acknowledge that arrest, indictment, information or trial in response to an

inquiry made of him for any purpose. Discharge and dismissal under this section may occur only once with respect to any person.

5. A professional licensing board may consider a proceeding under this section in determining suitability for a license or liability to discipline for misconduct. Such a board is entitled for those purposes to a truthful answer from the applicant or licensee concerning any such proceeding with respect to him.

~~[Sec. 53.]~~ *Sec. 65.* NRS 453.348 is hereby amended to read as follows:

453.348 In any proceeding brought under NRS 453.316, 453.321, 453.322, 453.333, 453.334, 453.337, 453.338 or 453.401, any previous convictions of the offender for a felony relating to controlled substances must be alleged in the indictment or information charging the primary offense, but the conviction may not be alluded to on the trial of the primary offense nor may any evidence of the previous offense be produced in the presence of the jury except as otherwise prescribed by law. If the offender pleads guilty *or guilty but mentally ill* to *,* or is convicted of *,* the primary offense but denies any previous conviction charged, the court shall determine the issue after hearing all relevant evidence. A certified copy of a conviction of a felony is prima facie evidence of the conviction.

~~[Sec. 54.]~~ *Sec. 66.* NRS 453.575 is hereby amended to read as follows:

453.575 1. If a defendant pleads guilty *or guilty but mentally ill* to *,* or is found guilty *or guilty but mentally ill* of, any violation of this chapter and an analysis of a controlled substance or other substance or drug was performed in relation to his case, the court shall include in the sentence an order that the defendant pay the sum of $60 as a fee for the analysis of the controlled substance or other substance or drug.

2. Except as otherwise provided in this subsection, any money collected for such an analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the court and must be:

(a) Collected from the defendant before or at the same time that the fine is collected.

(b) Stated separately in the judgment of the court or on the court's docket.

3. The money collected pursuant to subsection 1 in any district, municipal or justice court must be paid by the clerk of the court to the county or city treasurer, as appropriate, on or before the fifth day of each month for the preceding month.

4. The board of county commissioners of each county shall by ordinance create in the county treasury a fund to be designated as the fund for forensic services. The governing body of each city shall create in the city treasury a fund to be designated as the fund for forensic services. Upon receipt, the county or city treasurer, as appropriate, shall deposit any fee for the analyses of controlled substances or other substances or drugs in the fund. The money from such deposits must be accounted for separately within the fund.

5. Except as otherwise provided in subsection 6, each month the treasurer shall, from the money credited to the fund pursuant to subsection 3, pay any amount owed for forensic services and deposit any remaining money in the county or city general fund, as appropriate.

6. In counties which do not receive forensic services under a contract with the State, the money deposited in the fund for forensic services pursuant to subsection 4 must be expended, except as otherwise provided in this subsection:

(a) To pay for the analyses of controlled substances or other substances or drugs performed in connection with criminal investigations within the county;

(b) To purchase and maintain equipment to conduct these analyses; and

(c) For the training and continuing education of the employees who conduct these analyses.

➥ Money from the fund must not be expended to cover the costs of analyses conducted by, equipment used by or training for employees of an analytical laboratory not registered with the Drug Enforcement Administration of the United States Department of Justice.

~~[Sec. 55.]~~ *Sec. 67.* NRS 454.358 is hereby amended to read as follows:

454.358 1. When a defendant pleads guilty *or guilty but mentally ill* to *,* or is found guilty *or guilty but mentally ill* of *,* any violation of this chapter and an analysis of a dangerous drug was performed in relation to his case, the justice or judge shall include in the sentence the sum of $50 as a fee for the analysis of the dangerous drug.

2. The money collected for such an analysis must not be deducted from the fine imposed by the justice or judge, but must be taxed against the defendant in addition to the fine. The money collected for such an analysis must be stated separately on the court's docket and must be included in the amount posted for bail. If the defendant is found not guilty or the charges are dropped, the money deposited with the court must be returned to the defendant.

3. The money collected pursuant to subsection 1 in municipal court must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month.

4. The money collected pursuant to subsection 1 in justice courts must be paid by the clerk of the court to the county treasurer on or before the fifth day of each month for the preceding month.

5. The board of county commissioners of each county shall by ordinance, before September 1, 1987, create in the county treasury a fund to be designated as the fund for forensic services. Upon receipt, the county treasurer shall deposit any fee for the analyses of dangerous drugs in the fund.

6. In counties which receive forensic services under a contract with the State, any money in the fund for forensic services must be paid monthly by

the county treasurer to the State Treasurer for deposit in the State General Fund, after retaining 2 percent of the money to cover his administrative expenses.

7. In counties which do not receive forensic services under a contract with the State, money in the fund for forensic services must be expended, except as otherwise provided in this subsection:

(a) To pay for the analyses of dangerous drugs performed in connection with criminal investigations within the county;

(b) To purchase and maintain equipment to conduct these analyses; and

(c) For the training and continuing education of the employees who conduct these analyses.

➥ Money from the fund must not be expended to cover the costs of analyses conducted by, equipment used by or training for employees of an analytical laboratory not registered with the Drug Enforcement Administration of the United States Department of Justice.

~~[Sec. 56.]~~ *Sec. 68.* NRS 483.560 is hereby amended to read as follows:

483.560 1. Except as otherwise provided in subsection 2, any person who drives a motor vehicle on a highway or on premises to which the public has access at a time when his driver′s license has been cancelled, revoked or suspended is guilty of a misdemeanor.

2. Except as otherwise provided in this subsection, if the license of the person was suspended, revoked or restricted because of:

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

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

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

➥ the person shall be punished by imprisonment in jail for not less than 30 days nor more than 6 months or by serving a term of residential confinement for not less than 60 days nor more than 6 months, and shall be further punished by a fine of not less than $500 nor more than $1,000. A person who is punished pursuant to this subsection may not be granted probation, and a sentence imposed for such a violation may not be suspended. A prosecutor may not dismiss a charge of such a violation in exchange for a plea of guilty *, guilty but mentally ill* or ~~[of]~~ nolo contendere to a lesser charge or for any other reason, unless in his judgment the charge is not supported by probable cause or cannot be proved at trial. The provisions of this subsection do not apply if the period of revocation has expired but the person has not reinstated his license.

3. A term of imprisonment imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace. This discretion must be exercised after considering all the

circumstances surrounding the offense, and the family and employment of the person convicted. However, the full term of imprisonment must be served within 6 months after the date of conviction, and any segment of time the person is imprisoned must not consist of less than 24 hours.

4. Jail sentences simultaneously imposed pursuant to this section and NRS 484.3792, 484.37937 or 484.3794 must run consecutively.

5. If the Department receives a record of the conviction or punishment of any person pursuant to this section upon a charge of driving a vehicle while his license was:

(a) Suspended, the Department shall extend the period of the suspension for an additional like period.

(b) Revoked, the Department shall extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.

(c) Restricted, the Department shall revoke his restricted license and extend the period of ineligibility for a license, permit or privilege to drive for an additional 1 year.

(d) Suspended or cancelled for an indefinite period, the Department shall suspend his license for an additional 6 months for the first violation and an additional 1 year for each subsequent violation.

6. Suspensions and revocations imposed pursuant to this section must run consecutively.

~~[Sec. 57.]~~ *Sec. 69.* NRS 484.3792 is hereby amended to read as follows:

484.3792 1. Unless a greater penalty is provided pursuant to NRS 484.3795 or 484.37955, and except as otherwise provided in subsection 2, a person who violates the provisions of NRS 484.379:

(a) For the first offense within 7 years, is guilty of a misdemeanor. Unless he is allowed to undergo treatment as provided in NRS 484.37937, the court shall:

(1) Except as otherwise provided in subparagraph (4) or subsection 7, order him to pay tuition for an educational course on the abuse of alcohol and controlled substances approved by the Department and complete the course within the time specified in the order, and the court shall notify the Department if he fails to complete the course within the specified time;

(2) Unless the sentence is reduced pursuant to NRS 484.37937, sentence him to imprisonment for not less than 2 days nor more than 6 months in jail, or to perform not less than 48 hours, but not more than 96 hours, of community service while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379;

(3) Fine him not less than $400 nor more than $1,000; and

(4) If he is found to have a concentration of alcohol of 0.18 or more in his blood or breath, order him to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484.37945.

(b) For a second offense within 7 years, is guilty of a misdemeanor. Unless the sentence is reduced pursuant to NRS 484.3794, the court shall:

(1) Sentence him to:

(I) Imprisonment for not less than 10 days nor more than 6 months in jail; or

(II) Residential confinement for not less than 10 days nor more than 6 months, in the manner provided in NRS 4.376 to 4.3766, inclusive, or 5.0755 to 5.078, inclusive;

(2) Fine him not less than $750 nor more than $1,000, or order him to perform an equivalent number of hours of community service while dressed in distinctive garb that identifies him as having violated the provisions of NRS 484.379; and

(3) Order him to attend a program of treatment for the abuse of alcohol or drugs pursuant to the provisions of NRS 484.37945.

➥ A person who willfully fails or refuses to complete successfully a term of residential confinement or a program of treatment ordered pursuant to this paragraph is guilty of a misdemeanor.

(c) For a third offense within 7 years, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and shall be further punished by a fine of not less than $2,000 nor more than $5,000. An offender so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. Unless a greater penalty is provided in NRS 484.37955, a person who has previously been convicted of:

(a) A violation of NRS 484.379 that is punishable as a felony pursuant to paragraph (c) of subsection 1;

(b) A violation of NRS 484.3795;

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

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

➥ and who violates the provisions of NRS 484.379 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than $2,000 nor more than $5,000. An offender so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

3. Except as otherwise provided in this subsection, an offense that occurred within 7 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard to the sequence of the offenses and convictions. An offense which is listed in

paragraphs (a) to (d), inclusive, of subsection 2 that occurred on any date preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section when evidenced by a conviction, without regard for the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing and, if the principal offense is alleged to be a felony, must also be shown at the preliminary examination or presented to the grand jury.

4. A person convicted of violating the provisions of NRS 484.379 must not be released on probation, and a sentence imposed for violating those provisions must not be suspended except, as provided in NRS 4.373, 5.055, 484.37937 and 484.3794, that portion of the sentence imposed that exceeds the mandatory minimum. A prosecuting attorney shall not dismiss a charge of violating the provisions of NRS 484.379 in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial.

5. A term of confinement imposed pursuant to the provisions of this section may be served intermittently at the discretion of the judge or justice of the peace, except that a person who is convicted of a second or subsequent offense within 7 years must be confined for at least one segment of not less than 48 consecutive hours. This discretion must be exercised after considering all the circumstances surrounding the offense, and the family and employment of the offender, but any sentence of 30 days or less must be served within 6 months after the date of conviction or, if the offender was sentenced pursuant to NRS 484.37937 or 484.3794 and the suspension of his sentence was revoked, within 6 months after the date of revocation. Any time for which the offender is confined must consist of not less than 24 consecutive hours.

6. Jail sentences simultaneously imposed pursuant to this section and NRS 482.456, 483.560 or 485.330 must run consecutively.

7. If the person who violated the provisions of NRS 484.379 possesses a driver′s license issued by a state other than the State of Nevada and does not reside in the State of Nevada, in carrying out the provisions of subparagraph (1) of paragraph (a) of subsection 1, the court shall:

(a) Order the person to pay tuition for and submit evidence of completion of an educational course on the abuse of alcohol and controlled substances approved by a governmental agency of the state of his residence within the time specified in the order; or

(b) Order him to complete an educational course by correspondence on the abuse of alcohol and controlled substances approved by the Department within the time specified in the order,

➥ and the court shall notify the Department if the person fails to complete the assigned course within the specified time.

8. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

9. For the purpose of determining whether one offense occurs within 7 years of another offense, any period of time between the two offenses during which, for any such offense, the offender is imprisoned, serving a term of residential confinement, confined in a treatment facility, on parole or on probation must be excluded.

10. As used in this section, unless the context otherwise requires:

(a) "Concentration of alcohol of 0.18 or more in his blood or breath" means 0.18 gram or more of alcohol per 100 milliliters of the blood of a person or per 210 liters of his breath.

(b) "Offense" means:

(1) A violation of NRS 484.379 or 484.3795;

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

(3) A violation of a law of any other jurisdiction that prohibits the same or similar conduct as set forth in subparagraph (1) or (2).

(c) "Treatment facility" has the meaning ascribed to it in NRS 484.3793.

~~[Sec. 58.]~~ *Sec. 70.* NRS 484.3795 is hereby amended to read as follows:

484.3795 1. Unless a greater penalty is provided pursuant to NRS 484.37955, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379,

➥ and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years

and must be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

~~[Sec. 59.]~~ *Sec. 71.* NRS 484.3795 is hereby amended to read as follows:

484.3795 1. Unless a greater penalty is provided pursuant to NRS 484.37955, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.10 or more in his blood or breath;

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.10 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379,

➥ and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum

term of not less than 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.10 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

~~[Sec. 60.]~~ *Sec. 72.* NRS 484.37955 is hereby amended to read as follows:

484.37955 1. A person commits vehicular homicide if he:

(a) Drives or is in actual physical control of a vehicle on or off the highways of this State and:

(1) Is under the influence of intoxicating liquor;

(2) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(3) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his blood or breath;

(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(6) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379;

(b) Proximately causes the death of a person other than himself while driving or in actual physical control of a vehicle on or off the highways of this State; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits vehicular homicide is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of vehicular homicide in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. If the defendant was transporting a person who is less than 15 years of age in the vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

7. As used in this section, ″offense″ means:

(a) A violation of NRS 484.379 or 484.3795;

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

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

~~[Sec. 61.]~~ *Sec. 73.* NRS 484.37955 is hereby amended to read as follows:

484.37955 1. A person commits vehicular homicide if he:

(a) Drives or is in actual physical control of a vehicle on or off the highways of this State and:

(1) Is under the influence of intoxicating liquor;

(2) Has a concentration of alcohol of 0.10 or more in his blood or breath;

(3) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.10 or more in his blood or breath;

(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely driving or exercising actual physical control of a vehicle; or

(6) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484.379;

(b) Proximately causes the death of a person other than himself while driving or in actual physical control of a vehicle on or off the highways of this State; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits vehicular homicide is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of vehicular homicide in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.10 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. If the defendant was transporting a person who is less than 15 years of age in the vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

7. As used in this section, "offense" means:

(a) A violation of NRS 484.379 or 484.3795;

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

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

~~[Sec. 62.]~~ *Sec. 74.* NRS 484.3797 is hereby amended to read as follows:

484.3797 1. The judge or judges in each judicial district shall cause the preparation and maintenance of a list of the panels of persons who:

(a) Have been injured or had members of their families or close friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955 or a law of any other jurisdiction that prohibits the same or similar conduct; and

(b) Have, by contacting the judge or judges in the district, expressed their willingness to discuss collectively the personal effect of those crimes.

➥ The list must include the name and telephone number of the person to be contacted regarding each such panel and a schedule of times and locations of the meetings of each such panel. The judge or judges shall establish, in cooperation with representatives of the members of the panels, a fee, if any, to be paid by defendants who are ordered to attend a meeting of the panel. The amount of the fee, if any, must be reasonable. The panel may not be operated for profit.

2. Except as otherwise provided in this subsection, if a defendant pleads guilty *or guilty but mentally ill* to *,* or is found guilty *or guilty but mentally ill* of *,* any violation of NRS 484.379, 484.3795 or 484.37955, the court shall, in addition to imposing any other penalties provided by law, order the defendant to:

(a) Attend, at the defendant's expense, a meeting of a panel of persons who have been injured or had members of their families or close friends injured or killed by a person who was driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or who was engaging in any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955 or a law of any other jurisdiction that prohibits the same or similar conduct, in order to have the defendant understand the effect such a crime has on other persons; and

(b) Pay the fee, if any, established by the court pursuant to subsection 1.

➥ The court may, but is not required to, order the defendant to attend such a meeting if one is not available within 60 miles of the defendant's residence.

3. A person ordered to attend a meeting pursuant to subsection 2 shall, after attending the meeting, present evidence or other documentation satisfactory to the court that he attended the meeting and remained for its entirety.

~~[Sec. 63.]~~ *Sec. 75.* NRS 484.3798 is hereby amended to read as follows:

484.3798 1. If a defendant pleads guilty *or guilty but mentally ill* to *,* or is found guilty *or guilty but mentally ill* of *,* any violation of NRS 484.379, 484.3795 or 484.37955 and a chemical analysis of his blood, urine, breath or other bodily substance was conducted, the court shall, in addition to any penalty provided by law, order the defendant to pay the sum of $60 as a fee for the chemical analysis. Except as otherwise provided in this subsection, any money collected for the chemical analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the court and must be:

(a) Collected from the defendant before or at the same time that the fine is collected.

(b) Stated separately in the judgment of the court or on the court's docket.

2. All money collected pursuant to subsection 1 must be paid by the clerk of the court to the county or city treasurer, as appropriate, on or before the fifth day of each month for the preceding month.

3. The treasurer shall deposit all money received by him pursuant to subsection 2 in the county or city treasury, as appropriate, for credit to the fund for forensic services created pursuant to NRS 453.575. The money must be accounted for separately within the fund.

4. Except as otherwise provided in subsection 5, each month the treasurer shall, from the money credited to the fund pursuant to subsection 3, pay any amount owed for forensic services and deposit any remaining money in the county or city general fund, as appropriate.

5. In counties that do not receive forensic services under a contract with the State, the money credited to the fund pursuant to subsection 3:

(a) Except as otherwise provided in paragraph (b), must be:

(1) Expended to pay for the chemical analyses performed within the county;

(2) Expended to purchase and maintain equipment to conduct such analyses;

(3) Expended for the training and continuing education of the employees who conduct such analyses; and

(4) Paid to law enforcement agencies which conduct such analyses to be used by those agencies in the manner provided in this subsection.

(b) May only be expended to cover the costs of chemical analyses conducted by, equipment used by ~~[,]~~ or training for employees of an analytical laboratory that is approved by the Committee on Testing for Intoxication created in NRS 484.388.

~~[Sec. 64.]~~ *Sec. 76.* NRS 484.3945 is hereby amended to read as follows:

484.3945 1. A person required to install a device pursuant to NRS 484.3943 shall not operate a motor vehicle without a device or tamper with the device.

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

(a) Must have his driving privilege revoked in the manner set forth in subsection 4 of NRS 483.460; and

(b) Shall be:

(1) Punished by imprisonment in jail for not less than 30 days nor more than 6 months; or

(2) Sentenced to a term of not less than 60 days in residential confinement nor more than 6 months, and by a fine of not less than $500 nor more than $1,000.

➥ No person who is punished pursuant to this section may be granted probation, and no sentence imposed for such a violation may be suspended. No prosecutor may dismiss a charge of such a violation in exchange for a plea of guilty *, guilty but mentally ill* or ~~[of]~~ nolo contendere to a lesser charge or for any other reason unless, in his judgment, the charge is not supported by probable cause or cannot be proved at trial.

~~[Sec. 65.]~~ *Sec. 77.* NRS 484.777 is hereby amended to read as follows:

484.777 1. The provisions of this chapter are applicable and uniform throughout this State on all highways to which the public has a right of access or to which persons have access as invitees or licensees.

2. Unless otherwise provided by specific statute, any local authority may enact by ordinance traffic regulations which cover the same subject matter as the various sections of this chapter if the provisions of the ordinance are not in conflict with this chapter. It may also enact by ordinance regulations requiring the registration and licensing of bicycles.

3. A local authority shall not enact an ordinance:

(a) Governing the registration of vehicles and the licensing of drivers;

(b) Governing the duties and obligations of persons involved in traffic accidents, other than the duties to stop, render aid and provide necessary information; or

(c) Providing a penalty for an offense for which the penalty prescribed by this chapter is greater than that imposed for a misdemeanor.

4. No person convicted or adjudged guilty *or guilty but mentally ill* of a violation of a traffic ordinance may be charged or tried in any other court in this State for the same offense.

~~[Sec. 66.]~~ *Sec. 78.* NRS 487.650 is hereby amended to read as follows:

487.650 1. The Department may refuse to issue a license or, after notice and hearing, may suspend, revoke or refuse to renew a license to operate a body shop upon any of the following grounds:

(a) Failure of the applicant or licensee to have or maintain an established place of business in this State.

(b) Conviction of the applicant or licensee or an employee of the applicant or licensee of a felony, or of a misdemeanor or gross misdemeanor for a violation of a provision of this chapter.

(c) Any material misstatement in the application for the license.

(d) Willful failure of the applicant or licensee to comply with the motor vehicle laws of this State and NRS 487.035, 487.610 to 487.690, inclusive, or 597.480 to 597.590, inclusive.

(e) Failure or refusal by the licensee to pay or otherwise discharge any final judgment against him arising out of the operation of the body shop.

(f) Failure or refusal to provide to the Department an authorization for the disclosure of financial records for the business as required pursuant to subsection 2.

(g) A finding of ~~[guilt]~~ *guilty or guilty but mentally ill* by a court of competent jurisdiction in a case involving a fraudulent inspection, purchase, sale or transfer of a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

(h) An improper, careless or negligent inspection of a salvage vehicle pursuant to NRS 487.800 by the applicant or licensee or an employee of the applicant or licensee.

(i) A false statement of material fact in a certification of a salvage vehicle pursuant to NRS 487.800 or a record regarding a salvage vehicle by the applicant or licensee or an employee of the applicant or licensee.

2. Upon the receipt of any report or complaint alleging that an applicant or a licensee has engaged in financial misconduct or has failed to satisfy financial obligations related to the operation of a body shop, the Department may require the applicant or licensee to submit to the Department an authorization for the disclosure of financial records for the business as provided in NRS 239A.090. The Department may use any information obtained pursuant to such an authorization only to determine the suitability of the applicant or licensee for initial or continued licensure. Information obtained pursuant to such an authorization may be disclosed only to those employees of the Department who are authorized to issue a license to an applicant pursuant to NRS 487.610 to 487.690, inclusive, or to determine the suitability of an applicant or a licensee for such licensure.

3. As used in this section, ″salvage vehicle″ has the meaning ascribed to it in NRS 487.770.

~~[Sec. 67.]~~ *Sec. 79.* NRS 488.420 is hereby amended to read as follows:

488.420 1. Unless a greater penalty is provided pursuant to NRS 488.425, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.08 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or being in actual physical control of a vessel under power or sail; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.410,

➥ and does any act or neglects any duty imposed by law while operating or being in actual physical control of any vessel under power or sail, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and shall be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 must not be suspended, and probation must not be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel under power or sail, and before his blood was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If a person less than 15 years of age was in the vessel at the time of the defendant's violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

~~[Sec. 68.]~~ *Sec. 80.* NRS 488.420 is hereby amended to read as follows:

488.420 1. Unless a greater penalty is provided pursuant to NRS 488.425, a person who:

(a) Is under the influence of intoxicating liquor;

(b) Has a concentration of alcohol of 0.10 or more in his blood or breath;

(c) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.10 or more in his blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or being in actual physical control of a vessel under power or sail; or

(f) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.410,

➥ and does any act or neglects any duty imposed by law while operating or being in actual physical control of any vessel under power or sail, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, a person other than himself, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and shall be further punished by a fine of not less than $2,000 nor more than $5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 must not be suspended, and probation must not be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel under power or sail, and before his blood was tested, to cause him to have a concentration of alcohol of 0.10 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

4. If a person less than 15 years of age was in the vessel at the time of the defendant's violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

~~[Sec. 69.]~~ *Sec. 81.* NRS 488.425 is hereby amended to read as follows:

488.425 1. A person commits homicide by vessel if he:

(a) Operates or is in actual physical control of a vessel under power or sail on the waters of this State and:

(1) Is under the influence of intoxicating liquor;

(2) Has a concentration of alcohol of 0.08 or more in his blood or breath;

(3) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.08 or more in his blood or breath;

(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or exercising actual physical control of a vessel under power or sail; or

(6) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.410;

(b) Proximately causes the death of a person other than himself while operating or in actual physical control of a vessel under power or sail; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits homicide by vessel is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of homicide by vessel in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.08 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. If the defendant was transporting a person who is less than 15 years of age in the vessel at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

7. As used in this section, ″offense″ means:

(a) A violation of NRS 488.410 or 488.420;

(b) A homicide resulting from operating or being in actual physical control of a vessel while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by this section or NRS 488.410 or 488.420; or

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

~~[Sec. 70.]~~ *Sec. 82.* NRS 488.425 is hereby amended to read as follows:

488.425 1. A person commits homicide by vessel if he:

(a) Operates or is in actual physical control of a vessel under power or sail on the waters of this State and:

(1) Is under the influence of intoxicating liquor;

(2) Has a concentration of alcohol of 0.10 or more in his blood or breath;

(3) Is found by measurement within 2 hours after operating or being in actual physical control of a vessel under power or sail to have a concentration of alcohol of 0.10 or more in his blood or breath;

(4) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(5) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders him incapable of safely operating or exercising actual physical control of a vessel under power or sail; or

(6) Has a prohibited substance in his blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 488.420;

(b) Proximately causes the death of a person other than himself while operating or in actual physical control of a vessel under power or sail; and

(c) Has previously been convicted of at least three offenses.

2. A person who commits homicide by vessel is guilty of a category A felony and shall be punished by imprisonment in the state prison:

(a) For life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or

(b) For a definite term of 25 years, with eligibility for parole beginning when a minimum of 10 years has been served.

3. A person imprisoned pursuant to subsection 2 must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

4. A prosecuting attorney shall not dismiss a charge of homicide by vessel in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 2 may not be suspended nor may probation be granted.

5. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under subparagraph (3) of paragraph (a) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after operating or being in actual physical control of the vessel, and before his blood or breath was tested, to cause him to have a concentration of alcohol of 0.10 or more in his blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

6. If the defendant was transporting a person who is less than 15 years of age in the vessel at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

7. As used in this section, "offense" means:

(a) A violation of NRS 488.410 or 488.420;

(b) A homicide resulting from operating or being in actual physical control of a vessel while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by this section or NRS 488.410 or 488.420; or

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

~~[Sec. 71.]~~ *Sec. 83.* NRS 488.427 is hereby amended to read as follows:

488.427 1. Unless a greater penalty is provided pursuant to NRS 488.425, a person who violates the provisions of NRS 488.410 and who has previously been convicted of a violation of NRS 488.420 or 488.425 or a violation of the law of any other jurisdiction that prohibits the same or similar conduct as set forth in NRS 488.420 or 488.425 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and shall be further punished by a fine of not less than $2,000 nor more than $5,000. An offender so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. The facts concerning a prior violation of NRS 488.420 or 488.425 must be alleged in the complaint, indictment or information, must not be read to the jury or proved at trial but must be proved at the time of sentencing.

3. A prosecuting attorney shall not dismiss a charge of violating the provisions of NRS 488.410 against a person previously convicted of violating NRS 488.420 or 488.425 in exchange for a plea of guilty *, guilty but mentally ill* or nolo contendere to a lesser charge or for any other reason unless he knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 must not be suspended, and probation must not be granted.

4. If a person less than 15 years of age was in the vessel at the time of the defendant's violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.

~~[Sec. 72.]~~ *Sec. 84.* NRS 488.440 is hereby amended to read as follows:

488.440 1. If a defendant pleads guilty *or guilty but mentally ill* to *,* or is found guilty *or guilty but mentally ill* of, a violation of NRS 488.410, 488.420 or 488.425 and a chemical analysis of his blood, urine, breath or other bodily substance was conducted, the court shall, in addition to any penalty provided by law, order the defendant to pay the sum of $60 as a fee for the chemical analysis. Except as otherwise provided in this subsection, any money collected for the chemical analysis must not be deducted from, and is in addition to, any fine otherwise imposed by the court and must be:

(a) Collected from the defendant before or at the same time that the fine is collected.

(b) Stated separately in the judgment of the court or on the court′s docket.

2. All money collected pursuant to subsection 1 must be paid by the clerk of the court to the county or city treasurer, as appropriate, on or before the fifth day of each month for the preceding month.

3. The treasurer shall deposit all money received by him pursuant to subsection 2 in the county or city treasury, as appropriate, for credit to the fund for forensic services created pursuant to NRS 453.575. The money must be accounted for separately within the fund.

4. Except as otherwise provided in subsection 5, each month the treasurer shall, from the money credited to the fund pursuant to subsection 3, pay any amount owed for forensic services and deposit any remaining money in the county or city general fund, as appropriate.

5. In counties that do not receive forensic services under a contract with the State, the money credited to the fund pursuant to subsection 3:

(a) Except as otherwise provided in paragraph (b), must be:

(1) Expended to pay for the chemical analyses performed within the county;

(2) Expended to purchase and maintain equipment to conduct such analyses;

(3) Expended for the training and continuing education of the employees who conduct such analyses; and

(4) Paid to law enforcement agencies which conduct such analyses to be used by those agencies in the manner provided in this subsection.

(b) May only be expended to cover the costs of chemical analyses conducted by, equipment used by or training for employees of an analytical laboratory that is approved by the Committee on Testing for Intoxication created in NRS 484.388.

~~[Sec. 73.]~~ *Sec. 85.* NRS 489.421 is hereby amended to read as follows:

489.421 The following grounds, among others, constitute grounds for disciplinary action under NRS 489.381:

1. Revocation or denial of a license issued pursuant to this chapter or an equivalent license in any other state, territory or country.

2. Failure of the licensee to maintain any other license required by any political subdivision of this State.

3. Failure to respond to a notice served by the Division as provided by law within the time specified in the notice.

4. Failure to take the corrective action required in a notice of violation issued pursuant to NRS 489.291.

5. Failure or refusing to permit access by the Administrator to documentary materials set forth in NRS 489.231.

6. Disregarding or violating any order of the Administrator, any agreement with the Division, or any provision of this chapter or any regulation adopted under it.

7. Conviction of a misdemeanor for violation of any of the provisions of this chapter.

8. Conviction of or entering a plea of guilty *, guilty but mentally ill* or nolo contendere to:

(a) A felony relating to the position for which the applicant has applied or the licensee has been licensed pursuant to this chapter; or

(b) A crime of moral turpitude in this State or any other state, territory or country.

9. Any other conduct that constitutes deceitful, fraudulent or dishonest dealing.

~~[Sec. 74.]~~ *Sec. 86.* NRS 597.1143 is hereby amended to read as follows:

597.1143 1. A supplier shall not terminate, fail to renew or substantially change the terms of a dealer agreement without good cause.

2. Except as otherwise provided in this section, a supplier may terminate or refuse to renew a dealer agreement for good cause if the supplier provides to the dealer a written notice setting forth the reasons for the termination or nonrenewal of the dealer agreement at least 180 days before the termination or nonrenewal of the dealer agreement.

3. A supplier shall include in the written notice required by subsection 2 an explanation of the deficiencies of the dealer and the manner in which those deficiencies must be corrected. If the dealer corrects the deficiencies set forth in the notice within 60 days after he receives the notice, the supplier shall not terminate or fail to renew the dealer agreement for the reasons set forth in the notice.

4. A supplier shall not terminate or refuse to renew a dealer agreement based solely on the failure of the dealer to comply with the requirements of the dealer agreement concerning the share of the market the dealer was required to obtain unless the supplier has, for not less than 1 year, provided

assistance to the dealer in the dealer's effort to obtain the required share of the market.

5. A supplier is not required to comply with the provisions of subsections 2 and 3 if the supplier terminates or refuses to renew a dealer agreement for any reason set forth in paragraphs (b) to (i), inclusive, of subsection 6.

6. As used in this section, "good cause" means:

(a) A dealer fails to comply with the terms of a dealer agreement, if the terms are not substantially different from the terms required for other dealers in this State or any other state;

(b) A closeout or sale of a substantial part of the business assets of a dealer or a commencement of the dissolution or liquidation of the business assets of the dealer;

(c) A dealer changes its principal place of business or adds other places of business without the prior approval of the supplier, which may not be unreasonably withheld;

(d) A dealer substantially defaults under a chattel mortgage or other security agreement between the dealer and the supplier;

(e) A guarantee of a present or future obligation of a dealer to the supplier is revoked or discontinued;

(f) A dealer fails to operate in the normal course of business for at least 7 consecutive days;

(g) A dealer abandons the dealership;

(h) A dealer pleads guilty *or guilty but mentally ill* to *,* or is convicted of *,* a felony affecting the business relationship between the dealer and supplier; or

(i) A dealer transfers a financial interest in the dealership, a person who has a substantial financial interest in the ownership or control of the dealership dies or withdraws from the dealership, or the financial interest of a partner or major shareholder in the dealership is substantially reduced.

➥ For the purposes of this section, good cause does not exist if the supplier consents to any action described in this section.

~~[Sec. 75.]~~ *Sec. 87.* NRS 597.155 is hereby amended to read as follows:

597.155 1. Except as otherwise provided in subsection 2, a supplier must, at least 90 days before he terminates or refuses to continue any franchise with a wholesaler or causes a wholesaler to resign from any franchise, send a notice by certified mail, return receipt requested, to the wholesaler. The notice must include:

(a) The reason for the proposed action and a description of any failure of the wholesaler to comply with the terms, provisions and conditions of the franchise alleged by the supplier pursuant to NRS 597.160; and

(b) A statement that the wholesaler may correct any such failure within the period prescribed in NRS 597.160.

2. Any action taken by a supplier pursuant to subsection 1 becomes effective on the date the wholesaler receives the notice required pursuant to subsection 1 if the wholesaler:

(a) Has had his license to sell alcoholic beverages issued pursuant to state or federal law revoked or suspended for more than 31 days;

(b) Is insolvent pursuant to 11 U.S.C. § 101;

(c) Has had an order for relief entered against him pursuant to 11 U.S.C. §§ 701 et seq.;

(d) Has had his ability to conduct business substantially affected by a liquidation or dissolution;

(e) Or any other person who has a financial interest in the wholesaler of not less than 10 percent and is active in the management of the wholesaler has been convicted of *,* or has pleaded guilty *or guilty but mentally ill* to *,* a felony and the supplier determines that the conviction or plea substantially and adversely affects the ability of the wholesaler to sell the products of the supplier;

(f) Has committed fraud or has made a material misrepresentation in his dealings with the supplier or the products of the supplier;

(g) Has sold alcoholic beverages which the wholesaler received from the supplier to:

(1) A retailer who the wholesaler knows or should know does not have a place of business where the retailer is entitled to sell alcoholic beverages within the marketing area of the wholesaler; or

(2) Any person who the wholesaler knows or should know sells or supplies alcoholic beverages to any retailer who does not have a place of business where the retailer is entitled to sell alcoholic beverages within the marketing area of the wholesaler;

(h) Has failed to pay for any product ordered and delivered pursuant to the provisions of an agreement between the supplier and wholesaler within 7 business days after the supplier sends to the wholesaler a written notice which includes a statement that he has failed to pay for the product and a demand for immediate payment;

(i) Has made an assignment for the benefit of creditors or a similar disposition of substantially all the assets of his franchise;

(j) Or any other person who has a financial interest in the wholesaler has:

(1) Transferred or attempted to transfer the assets of the franchise, voting stock of the wholesaler or voting stock of any parent corporation of the wholesaler; or

(2) Changed or attempted to change the beneficial ownership or control of any such entity,

➥ unless the wholesaler first notified the supplier in writing and the supplier has not unreasonably withheld his approval; or

(k) Discontinues selling the products of the supplier, unless:

(1) The discontinuance is a result of an accident which the wholesaler was unable to prevent;

(2) The wholesaler has, if applicable, taken action to correct the condition which caused the accident; and

(3) The wholesaler has notified the supplier of the accident if he has discontinued selling the products of the supplier for more than 10 days.

~~[Sec. 76.]~~ *Sec. 88.* NRS 597.818 is hereby amended to read as follows:

597.818 1. A person who violates any provision of NRS 597.814 is guilty of a misdemeanor.

2. If a person is found guilty *or guilty but mentally ill* of, or has pleaded guilty *, guilty but mentally ill* or nolo contendere to, violating any provision of NRS 597.814, his telephone service to which a device for automatic dialing and announcing has been connected must be suspended for a period determined by the court.

~~[Sec. 77.]~~ *Sec. 89.* NRS 616A.250 is hereby amended to read as follows:

616A.250 ″Incarcerated″ means confined in:

1. Any local detention facility, county jail, state prison, reformatory or other correctional facility as a result of a conviction or a plea of guilty *, guilty but mentally ill* or nolo contendere in a criminal proceeding; or

2. Any institution or facility for the mentally ill as a result of a plea of not guilty by reason of insanity in a criminal proceeding,

➥ in this State, another state or a foreign country.

~~[Sec. 78.]~~ *Sec. 90.* NRS 623.270 is hereby amended to read as follows:

623.270 1. The Board may place the holder of any certificate of registration issued pursuant to the provisions of this chapter on probation, publicly reprimand him, fine him not more than $10,000, suspend or revoke his license, impose the costs of investigation and prosecution upon him or take any combination of these disciplinary actions for any of the following acts:

(a) The certificate was obtained by fraud or concealment of a material fact.

(b) The holder of the certificate has been found guilty by the Board or *found guilty or guilty but mentally ill* by a court of justice of any fraud, deceit or concealment of a material fact in his professional practice, or has been convicted by a court of justice of a crime involving moral turpitude.

(c) The holder of the certificate has been found guilty by the Board of incompetency, negligence or gross negligence in:

(1) The practice of architecture or residential design; or

(2) His practice as a registered interior designer.

(d) The holder of a certificate has affixed his signature or seal to plans, drawings, specifications or other instruments of service which have not been prepared by him or in his office, or under his responsible control, or has permitted the use of his name to assist any person who is not a registered

architect, registered interior designer or residential designer to evade any provision of this chapter.

(e) The holder of a certificate has aided or abetted any unauthorized person to practice:

(1) Architecture or residential design; or

(2) As a registered interior designer.

(f) The holder of the certificate has violated any law, regulation or code of ethics pertaining to:

(1) The practice of architecture or residential design; or

(2) Practice as a registered interior designer.

(g) The holder of a certificate has failed to comply with an order issued by the Board or has failed to cooperate with an investigation conducted by the Board.

2. The conditions for probation imposed pursuant to the provisions of subsection 1 may include, but are not limited to:

(a) Restriction on the scope of professional practice.

(b) Peer review.

(c) Required education or counseling.

(d) Payment of restitution to each person who suffered harm or loss.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. The Board shall not privately reprimand the holder of any certificate of registration issued pursuant to this chapter.

5. As used in this section:

(a) ″Gross negligence″ means conduct which demonstrates a reckless disregard of the consequences affecting the life or property of another person.

(b) ″Incompetency″ means conduct which, in:

(1) The practice of architecture or residential design; or

(2) Practice as a registered interior designer,

➥ demonstrates a significant lack of ability, knowledge or fitness to discharge a professional obligation.

(c) ″Negligence″ means a deviation from the normal standard of professional care exercised generally by other members in:

(1) The profession of architecture or residential design; or

(2) Practice as a registered interior designer.

~~[Sec. 79.]~~ *Sec. 91.* NRS 624.165 is hereby amended to read as follows:

624.165 1. The Board shall:

(a) Designate one or more of its employees for the investigation of constructional fraud;

(b) Cooperate with other local, state or federal investigative and law enforcement agencies, and the Attorney General;

(c) Assist the Attorney General or any official of an investigative or a law enforcement agency of this State, any other state or the Federal Government who requests assistance in investigating any act of constructional fraud; and

(d) Furnish to those officials any information concerning its investigation or report on any act of constructional fraud.

2. The Board may obtain records of a law enforcement agency or any other agency that maintains records of criminal history, including, without limitation, records of:

(a) Arrests;

(b) Guilty *and guilty but mentally ill* pleas;

(c) Sentencing;

(d) Probation;

(e) Parole;

(f) Bail;

(g) Complaints; and

(h) Final dispositions,

➥ for the investigation of constructional fraud.

3. For the purposes of this section, constructional fraud occurs if a person engaged in construction knowingly:

(a) Misapplies money under the circumstances described in NRS 205.310;

(b) Obtains money, property or labor by false pretense as described in NRS 205.380;

(c) Receives payments and fails to state his own true name, or states a false name, contractor's license number, address or telephone number of the person offering a service;

(d) Diverts money or commits any act of theft, forgery, fraud or embezzlement, in connection with a construction project, that violates a criminal statute of this State;

(e) Acts as a contractor without:

(1) Possessing a contractor′s license issued pursuant to this chapter; or

(2) Possessing any other license required by this State or a political subdivision of this State;

(f) In any report relating to a contract for a public work, submits false information concerning a payroll to a public officer or agency; or

(g) Otherwise fails to disclose a material fact.

~~[Sec. 80.]~~ *Sec. 92.* NRS 624.265 is hereby amended to read as follows:

624.265 1. An applicant for a contractor′s license or a licensed contractor and each officer, director, partner and associate thereof must possess good character. Lack of character may be established by showing that the applicant or licensed contractor, or any officer, director, partner or associate thereof, has:

(a) Committed any act which would be grounds for the denial, suspension or revocation of a contractor′s license;

(b) A bad reputation for honesty and integrity;

(c) Entered a plea of *guilty, guilty but mentally ill or* nolo contendere ~~[or guilty]~~ to, been found guilty *or guilty but mentally ill* of *,* or been convicted, in this State or any other jurisdiction, of a crime arising out of, in connection

with or related to the activities of such person in such a manner as to demonstrate his unfitness to act as a contractor, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal; or

(d) Had a license revoked or suspended for reasons that would preclude the granting or renewal of a license for which the application has been made.

2. Upon the request of the Board, an applicant for a contractor's license, and any officer, director, partner or associate of the applicant, must submit to the Board completed fingerprint cards and a form authorizing an investigation of the applicant's background and the submission of his fingerprints to the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation. The fingerprint cards and authorization form submitted must be those that are provided to the applicant by the Board. The applicant's fingerprints may be taken by an agent of the Board or an agency of law enforcement.

3. The Board shall keep the results of the investigation confidential and not subject to inspection by the general public.

4. The Board shall establish by regulation the fee for processing the fingerprints to be paid by the applicant. The fee must not exceed the sum of the amounts charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints.

5. The Board may obtain records of a law enforcement agency or any other agency that maintains records of criminal history, including, without limitation, records of:

(a) Arrests;

(b) Guilty *and guilty but mentally ill* pleas;

(c) Sentencing;

(d) Probation;

(e) Parole;

(f) Bail;

(g) Complaints; and

(h) Final dispositions,

➥ for the investigation of a licensee or an applicant for a contractor's license.

~~[Sec. 81.]~~ *Sec. 93.* NRS 632.320 is hereby amended to read as follows:

632.320 The Board may deny, revoke or suspend any license or certificate applied for or issued pursuant to this chapter, or take other disciplinary action against a licensee or holder of a certificate, upon determining that he:

1. Is guilty of fraud or deceit in procuring or attempting to procure a license or certificate pursuant to this chapter.

2. Is guilty of any offense:

(a) Involving moral turpitude; or

(b) Related to the qualifications, functions or duties of a licensee or holder of a certificate,

➥ in which case the record of conviction is conclusive evidence thereof.

3. Has been convicted of violating any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive.

4. Is unfit or incompetent by reason of gross negligence or recklessness in carrying out usual nursing functions.

5. Uses any controlled substance, dangerous drug as defined in chapter 454 of NRS, or intoxicating liquor to an extent or in a manner which is dangerous or injurious to any other person or which impairs his ability to conduct the practice authorized by his license or certificate.

6. Is mentally incompetent.

7. Is guilty of unprofessional conduct, which includes, but is not limited to, the following:

(a) Conviction of practicing medicine without a license in violation of chapter 630 of NRS, in which case the record of conviction is conclusive evidence thereof.

(b) Impersonating any applicant or acting as proxy for an applicant in any examination required pursuant to this chapter for the issuance of a license or certificate.

(c) Impersonating another licensed practitioner or holder of a certificate.

(d) Permitting or allowing another person to use his license or certificate to practice as a licensed practical nurse, registered nurse or nursing assistant.

(e) Repeated malpractice, which may be evidenced by claims of malpractice settled against him.

(f) Physical, verbal or psychological abuse of a patient.

(g) Conviction for the use or unlawful possession of a controlled substance or dangerous drug as defined in chapter 454 of NRS.

8. Has willfully or repeatedly violated the provisions of this chapter. The voluntary surrender of a license or certificate issued pursuant to this chapter is prima facie evidence that the licensee or certificate holder has committed or expects to commit a violation of this chapter.

9. Is guilty of aiding or abetting any person in a violation of this chapter.

10. Has falsified an entry on a patient's medical chart concerning a controlled substance.

11. Has falsified information which was given to a physician, pharmacist, podiatric physician or dentist to obtain a controlled substance.

12. Has been disciplined in another state in connection with a license to practice nursing or a certificate to practice as a nursing assistant or has committed an act in another state which would constitute a violation of this chapter.

13. Has engaged in conduct likely to deceive, defraud or endanger a patient or the general public.

14. Has willfully failed to comply with a regulation, subpoena or order of the Board.

➥ For the purposes of this section, a plea or verdict of guilty *or guilty but mentally ill* or a plea of nolo contendere constitutes a conviction of an

offense. The Board may take disciplinary action pending the appeal of a conviction.

~~[Sec. 82.]~~ *Sec. 94.* NRS 639.006 is hereby amended to read as follows:

639.006 "Conviction" means a plea or verdict of guilty *or guilty but mentally ill* or a conviction following a plea of nolo contendere to a charge of a felony, any offense involving moral turpitude or any violation of the provisions of this chapter or chapter 453 or 454 of NRS.

~~[Sec. 83.]~~ *Sec. 95.* NRS 639.500 is hereby amended to read as follows:

639.500 1. In addition to the requirements for an application set forth in NRS 639.100, each applicant for a license to engage in wholesale distribution shall submit with his application a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. If the applicant is a:

(a) Natural person, that person must submit his fingerprints.

(b) Partnership, each partner must submit his fingerprints.

(c) Corporation, each officer and director of the corporation must submit his fingerprints.

(d) Sole proprietorship, that sole proprietor must submit his fingerprints.

2. In addition to the requirements of subsection 1, the applicant shall submit with his application a list containing each employee, agent, independent contractor, consultant, guardian, personal representative, lender or holder of indebtedness of the applicant. The Board may require any person on the applicant's list to submit a complete set of his fingerprints to the Board if the Board determines that the person has the power to exercise significant influence over the operation of the applicant as a licensed wholesaler. The fingerprints must be submitted with written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The provisions of this subsection do not apply to a:

(a) Lender or holder of indebtedness of an applicant who is a commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, personal property broker, consumer finance lender, commercial finance lender or insurer, or any other person engaged in the business of extending credit, who is regulated by an officer or agency of the State or the Federal Government.

(b) Common motor carrier or other delivery service that delivers a drug at the direction of a manufacturer.

3. The Board may issue a provisional license to an applicant pending receipt of the reports from the Federal Bureau of Investigation if the Board determines that the applicant is otherwise qualified.

4. An applicant who is issued a license by the Board shall not allow a person who is required to submit his fingerprints pursuant to subsection 2 to act in any capacity in which he exercises significant influence over the operation of the wholesaler if the:

(a) Person does not submit a complete set of his fingerprints in accordance with subsection 2; or

(b) Report of the criminal history of the person indicates that he has been convicted of, or entered a plea of guilty *, guilty but mentally ill* or nolo contendere to, a felony or offense involving moral turpitude or related to the qualifications, functions or duties of that person in connection with the operation of the wholesaler.

5. The Board shall not issue a license to an applicant if the requirements of this section are not satisfied.

~~[Sec. 84.]~~ *Sec. 96.* NRS 639.505 is hereby amended to read as follows:

639.505 1. On an annual basis, each licensed wholesaler shall submit to the Board an updated list of each employee, agent, independent contractor, consultant, guardian, personal representative, lender or holder of indebtedness of the wholesaler who is employed by or otherwise contracts with the wholesaler for the provision of services in connection with the operation of the licensee as a wholesaler. Any changes to the list must be submitted to the Board not later than 30 days after the change is made.

2. If a person identified on an updated list of the wholesaler is employed by or otherwise contracts with the wholesaler after the wholesaler is issued a license and that person did not submit his fingerprints pursuant to NRS 639.500, the Board may require that person to submit a complete set of his fingerprints to the Board if the Board determines that the person has the power to exercise significant influence over the operation of the licensee as a wholesaler. The fingerprints must be submitted within 30 days after being requested to do so by the Board and must include written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The provisions of this subsection do not apply to a:

(a) Lender or holder of indebtedness of a wholesaler who is a commercial bank, bank holding company, subsidiary or affiliate of a bank holding company, personal property broker, consumer finance lender, commercial finance lender or insurer, or any other person engaged in the business of extending credit, who is regulated by an officer or agency of the State or the Federal Government.

(b) Common motor carrier or other delivery service that delivers a drug at the direction of a manufacturer.

3. A wholesaler shall not allow a person who is required to submit his fingerprints pursuant to subsection 2 to act in any capacity in which he exercises significant influence over the operation of the wholesaler if the:

(a) Person does not submit a complete set of his fingerprints in accordance with subsection 2; or

(b) Report of the criminal history of the person indicates that he has been convicted of, or entered a plea of guilty *, guilty but mentally ill* or nolo contendere to, a felony or offense involving moral turpitude or related to qualifications, functions or duties of that person in connection with the operation of the wholesaler.

~~[Sec. 85.]~~ *Sec. 97.* NRS 645.330 is hereby amended to read as follows:

645.330 1. Except as otherwise provided by a specific statute, the Division may approve an application for a license for a person who meets all the following requirements:

(a) Has a good reputation for honesty, trustworthiness and integrity and who offers proof of those qualifications satisfactory to the Division.

(b) Has not made a false statement of material fact on his application.

(c) Is competent to transact the business of a real estate broker, broker-salesman or salesman in a manner which will safeguard the interests of the public.

(d) Has passed the examination.

(e) Has submitted all information required to complete the application.

2. The Division:

(a) May deny a license to any person who has been convicted of, or entered a plea of guilty *, guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, engaging in a real estate business without a license, possessing for the purpose of sale any controlled substance or any crime involving moral turpitude, in any court of competent jurisdiction in the United States or elsewhere; and

(b) Shall not issue a license to such a person until at least 3 years after:

(1) The person pays any fine or restitution ordered by the court; or

(2) The expiration of the period of the person's parole, probation or sentence,

➥ whichever is later.

3. Suspension or revocation of a license pursuant to this chapter or any prior revocation or current suspension in this or any other state, district or territory of the United States or any foreign country before the date of the application is grounds for refusal to grant a license.

4. Except as otherwise provided in NRS 645.332, a person may not be licensed as a real estate broker unless he has been actively engaged as a full-time licensed real estate broker-salesman or salesman in this State, or actively engaged as a full-time licensed real estate broker, broker-salesman or salesman in another state or the District of Columbia, for at least 2 of the 4 years immediately preceding the issuance of a broker's license.

~~[Sec. 86.]~~ *Sec. 98.* NRS 645.350 is hereby amended to read as follows:

645.350 1. An application for a license as a real estate broker, broker-salesman or salesman must be submitted in writing to the Division upon blanks prepared or furnished by the Division.

2. Every application for a real estate broker′s, broker-salesman′s or salesman′s license must set forth the following information:

(a) The name, age and address of the applicant. If the applicant is a partnership or an association which is applying to do business as a real estate broker, the application must contain the name and address of each member thereof. If the application is for a corporation which is applying to do business as a real estate salesman, real estate broker-salesman or real estate broker, the application must contain the name and address of each officer and director thereof. If the applicant is a limited-liability company which is applying to do business as a real estate broker, the company's articles of organization must designate a manager, and the name and address of the manager and each member must be listed in the application.

(b) In the case of a broker, the name under which the business is to be conducted. The name is a fictitious name if it does not contain the name of the applicant or the names of the members of the applicant's company, firm, partnership or association. Except as otherwise provided in NRS 645.387, a license must not be issued under a fictitious name which includes the name of a real estate salesman or broker-salesman. A license must not be issued under the same fictitious name to more than one licensee within the State. All licensees doing business under a fictitious name shall comply with other pertinent statutory regulations regarding the use of fictitious names.

(c) In the case of a broker, the place or places, including the street number, city and county, where the business is to be conducted.

(d) The business or occupation engaged in by the applicant for at least 2 years immediately preceding the date of the application, and the location thereof.

(e) The time and place of the applicant's previous experience in the real estate business as a broker or salesman.

(f) Whether the applicant has ever been convicted of or is under indictment for a felony or has entered a plea of guilty *, guilty but mentally ill* or nolo contendere to a charge of felony and, if so, the nature of the felony.

(g) Whether the applicant has been convicted of or entered a plea of nolo contendere to forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, engaging in the business of selling real estate without a license or any crime involving moral turpitude.

(h) Whether the applicant has been refused a real estate broker′s, broker-salesman′s or salesman′s license in any state, or whether his license as a broker or salesman has been revoked or suspended by any other state, district or territory of the United States or any other country.

(i) If the applicant is a member of a limited-liability company, partnership or association, or an officer of a corporation, the name and address of the

office of the limited-liability company, partnership, association or corporation of which the applicant is a member or officer.

(j) All information required to complete the application.

3. An applicant for a license as a broker-salesman or salesman shall provide a verified statement from the broker with whom he will be associated, expressing the intent of that broker to associate the applicant with him and to be responsible for the applicant's activities as a licensee.

4. If a limited-liability company, partnership or association is to do business as a real estate broker, the application for a broker's license must be verified by at least two members thereof. If a corporation is to do business as a real estate broker, the application must be verified by the president and the secretary thereof.

~~[Sec. 87.]~~ *Sec. 99.* NRS 645.633 is hereby amended to read as follows:

645.633 1. The Commission may take action pursuant to NRS 645.630 against any person subject to that section who is guilty of any of the following acts:

(a) Willfully using any trade name, service mark or insigne of membership in any real estate organization of which the licensee is not a member, without the legal right to do so.

(b) Violating any order of the Commission, any agreement with the Division, any of the provisions of this chapter, chapter 116, 119, 119A, 119B, 645A or 645C of NRS or any regulation adopted pursuant thereto.

(c) Paying a commission, compensation or a finder's fee to any person for performing the services of a broker, broker-salesman or salesman who has not secured his license pursuant to this chapter. This subsection does not apply to payments to a broker who is licensed in his state of residence.

(d) A conviction of, or the entry of a plea of guilty *, guilty but mentally ill* or nolo contendere to:

(1) A felony relating to the practice of the licensee, property manager or owner-developer; or

(2) Any crime involving fraud, deceit, misrepresentation or moral turpitude.

(e) Guaranteeing, or having authorized or permitted any person to guarantee, future profits which may result from the resale of real property.

(f) Failure to include a fixed date of expiration in any written brokerage agreement or failure to leave a copy of such a brokerage agreement or any property management agreement with the client.

(g) Accepting, giving or charging any undisclosed commission, rebate or direct profit on expenditures made for a client.

(h) Gross negligence or incompetence in performing any act for which he is required to hold a license pursuant to this chapter, chapter 119, 119A or 119B of NRS.

(i) Any other conduct which constitutes deceitful, fraudulent or dishonest dealing.

(j) Any conduct which took place before he became licensed which was in fact unknown to the Division and which would have been grounds for denial of a license had the Division been aware of the conduct.

(k) Knowingly permitting any person whose license has been revoked or suspended to act as a real estate broker, broker-salesman or salesman, with or on behalf of the licensee.

(l) Recording or causing to be recorded a claim pursuant to the provisions of NRS 645.8701 to 645.8811, inclusive, that is determined by a district court to be frivolous and made without reasonable cause pursuant to NRS 645.8791.

2. The Commission may take action pursuant to NRS 645.630 against a person who is subject to that section for the suspension or revocation of a real estate broker′s, broker-salesman′s or salesman′s license issued to him by any other jurisdiction.

3. The Commission may take action pursuant to NRS 645.630 against any person who:

(a) Holds a permit to engage in property management issued pursuant to NRS 645.6052; and

(b) In connection with any property for which the person has obtained a property management agreement pursuant to NRS 645.6056:

(1) Is convicted of violating any of the provisions of NRS 202.470;

(2) Has been notified in writing by the appropriate governmental agency of a potential violation of NRS 244.360, 244.3603 or 268.4124, and has failed to inform the owner of the property of such notification; or

(3) Has been directed in writing by the owner of the property to correct a potential violation of NRS 244.360, 244.3603 or 268.4124, and has failed to correct the potential violation, if such corrective action is within the scope of the person′s duties pursuant to the property management agreement.

4. The Division shall maintain a log of any complaints that it receives relating to activities for which the Commission may take action against a person holding a permit to engage in property management pursuant to subsection 3.

5. On or before February 1 of each odd-numbered year, the Division shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Division pursuant to subsection 4; and

(b) Any disciplinary actions taken by the Commission pursuant to subsection 3.

~~[Sec. 88.]~~ *Sec. 100.* NRS 645C.290 is hereby amended to read as follows:

645C.290 An application for a certificate or license must be in writing upon a form prepared and furnished by the Division. The application must include the following information:

1. The name, age and address of the applicant.

2. The place or places, including the street number, city and county, where the applicant intends to conduct business as an appraiser.

3. The business, occupation or other employment of the applicant during the 5 years immediately preceding the date of the application, and the location thereof.

4. The periods during which, and the locations where, he gained his experience as an intern.

5. Whether the applicant has ever been convicted of, is under indictment for, or has entered a plea of guilty *, guilty but mentally ill* or nolo contendere to:

(a) A felony and, if so, the nature of the felony.

(b) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

6. Whether the applicant has ever been refused a certificate, license or permit to act as an appraiser, or has ever had such a certificate, license or permit suspended or revoked, in any other jurisdiction.

7. If the applicant is a member of a partnership or association or is an officer of a corporation, the name and address of the principal office of the partnership, association or corporation.

8. Any other information the Division requires.

~~[Sec. 89.]~~ *Sec. 101.* NRS 645C.320 is hereby amended to read as follows:

645C.320 1. The Administrator shall issue a certificate or license, as appropriate, to any person:

(a) Of good moral character, honesty and integrity;

(b) Who meets the educational requirements and has the experience prescribed in NRS 645C.330 or any regulation adopted pursuant to that section;

(c) Who, except as otherwise provided in NRS 645C.360, has satisfactorily passed a written examination approved by the Commission; and

(d) Who submits all information required to complete an application for a certificate or license.

2. The Administrator may deny an application for a certificate or license to any person who:

(a) Has been convicted of, or entered a plea of guilty *, guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(b) Makes a false statement of a material fact on his application; or

(c) Has had a certificate, license or registration card suspended or revoked pursuant to this chapter, or a certificate, license or permit to act as an appraiser suspended or revoked in any other jurisdiction, within the 10 years immediately preceding the date of his application.

~~[Sec. 90.]~~ *Sec. 102.* NRS 645D.170 is hereby amended to read as follows:

645D.170 An application for a certificate must be in writing upon a form prepared and furnished by the Division. The application must include the following information:

1. The name, age and address of the applicant.

2. The place or places, including the street number, city and county, at which the applicant intends to maintain an office to conduct business as an inspector.

3. The business, occupation or other employment of the applicant during the 5 years immediately preceding the date of the application, and the location thereof.

4. The applicant′s education and experience to qualify for a certificate.

5. Whether the applicant has ever been convicted of, is under indictment for, or has entered a plea of guilty *, guilty but mentally ill* or nolo contendere to:

(a) A felony ~~[,]~~ and *,* if so, the nature of the felony.

(b) Forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

6. If the applicant is a member of a partnership or association or is an officer of a corporation, the name and address of the principal office of the partnership, association or corporation.

7. Any other information relating to the qualifications or background of the applicant that the Division requires.

8. All other information required to complete the application.

~~[Sec. 91.]~~ *Sec. 103.* NRS 645D.200 is hereby amended to read as follows:

645D.200 1. The Administrator shall issue a certificate to any person who:

(a) Is of good moral character, honesty and integrity;

(b) Has the education and experience prescribed in the regulations adopted pursuant to NRS 645D.120;

(c) Has submitted proof that he or his employer holds a policy of insurance that complies with the requirements of subsection 1 of NRS 645D.190; and

(d) Has submitted all information required to complete an application for a certificate.

2. The Administrator may deny an application for a certificate to any person who:

(a) Has been convicted of, or entered a plea of guilty *, guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(b) Makes a false statement of a material fact on his application;

(c) Has had a certificate suspended or revoked pursuant to this chapter within the 10 years immediately preceding the date of his application; or

(d) Has not submitted proof that he or his employer holds a policy of insurance that complies with the requirements of subsection 1 of NRS 645D.190.

~~[Sec. 92.]~~ *Sec. 104.* NRS 683A.0892 is hereby amended to read as follows:

683A.0892 1. The Commissioner:

(a) Shall suspend or revoke the certificate of registration of an administrator if the Commissioner has determined, after notice and a hearing, that the administrator:

(1) Is in an unsound financial condition;

(2) Uses methods or practices in the conduct of his business that are hazardous or injurious to insured persons or members of the general public; or

(3) Has failed to pay any judgment against him in this State within 60 days after the judgment became final.

(b) May suspend or revoke the certificate of registration of an administrator if the Commissioner determines, after notice and a hearing, that the administrator:

(1) Has willfully violated or failed to comply with any provision of this Code, any regulation adopted pursuant to this Code or any order of the Commissioner;

(2) Has refused to be examined by the Commissioner or has refused to produce accounts, records or files for examination upon the request of the Commissioner;

(3) Has, without just cause, refused to pay claims or perform services pursuant to his contracts or has, without just cause, caused persons to accept less than the amount of money owed to them pursuant to the contracts, or has caused persons to employ an attorney or bring a civil action against him to receive full payment or settlement of claims;

(4) Is affiliated with, managed by or owned by another administrator or an insurer who transacts insurance in this State without a certificate of authority or certificate of registration;

(5) Fails to comply with any of the requirements for a certificate of registration;

(6) Has been convicted of *,* or has entered a plea of guilty *, guilty but mentally ill* or nolo contendere to *,* a felony, whether or not adjudication was withheld;

(7) Has had his authority to act as an administrator in another state limited, suspended or revoked; or

(8) Has failed to file an annual report in accordance with NRS 683A.08528.

(c) May suspend or revoke the certificate of registration of an administrator if the Commissioner determines, after notice and a hearing, that a responsible person:

(1) Has refused to provide any information relating to the administrator's affairs or refused to perform any other legal obligation relating to an examination upon request by the Commissioner; or

(2) Has been convicted of *,* or has entered a plea of guilty *, guilty but mentally ill* or nolo contendere to *,* a felony committed on or after October 1, 2003, whether or not adjudication was withheld.

(d) May, upon notice to the administrator, suspend the certificate of registration of the administrator pending a hearing if:

(1) The administrator is impaired or insolvent;

(2) A proceeding for receivership, conservatorship or rehabilitation has been commenced against the administrator in any state; or

(3) The financial condition or the business practices of the administrator represent an imminent threat to the public health, safety or welfare of the residents of this State.

(e) May, in addition to or in lieu of the suspension or revocation of the certificate of registration of the administrator, impose a fine of $2,000 for each act or violation.

2. As used in this section, "responsible person" means any person who is responsible for or controls or is authorized to control or advise the affairs of an administrator, including, without limitation:

(a) A member of the board of directors, board of trustees, executive committee or other governing board or committee of the administrator;

(b) The president, vice president, chief executive officer, chief operating officer or any other principal officer of an administrator, if the administrator is a corporation;

(c) A partner or member of the administrator, if the administrator is a partnership, association or limited-liability company; and

(d) Any shareholder or member of the administrator who directly or indirectly holds 10 percent or more of the voting stock, voting securities or voting interest of the administrator.

~~[Sec. 93.]~~ *Sec. 105.* NRS 684A.070 is hereby amended to read as follows:

684A.070 1. For the protection of the people of this State, the Commissioner may not issue or continue any license as an adjuster except in compliance with the provisions of this chapter. Any person for whom a license is issued or continued must:

(a) Be at least 18 years of age;

(b) Except as otherwise provided in subsection 2, be a resident of this State, and have resided therein for at least 90 days before his application for the license;

(c) Be competent, trustworthy, financially responsible and of good reputation;

(d) Never have been convicted of, or entered a plea of guilty *, guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude;

(e) Have had at least 2 years′ recent experience with respect to the handling of loss claims of sufficient character reasonably to enable him to fulfill the responsibilities of an adjuster;

(f) Pass all examinations required under this chapter; and

(g) Not be concurrently licensed as a producer of insurance for property, casualty or surety or a surplus lines broker, except as a bail agent.

2. The Commissioner may waive the residency requirement set forth in paragraph (b) of subsection 1 if the applicant is:

(a) An adjuster licensed under the laws of another state who has been brought to this State by a firm or corporation with whom he is employed that is licensed as an adjuster in this State to fill a vacancy in the firm or corporation in this State;

(b) An adjuster licensed in an adjoining state whose principal place of business is located within 50 miles from the boundary of this State; or

(c) An adjuster who is applying for a limited license pursuant to NRS 684A.155.

3. A conviction of, or plea of guilty *, guilty but mentally ill* or nolo contendere by, an applicant or licensee for any crime listed in paragraph (d) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend, revoke or limit the license of an adjuster pursuant to NRS 684A.210.

~~[Sec. 94.]~~ *Sec. 106.* NRS 686A.292 is hereby amended to read as follows:

686A.292 1. A court may, in addition to imposing the penalties set forth in NRS 193.130, order a person who is convicted of, or who pleads guilty *, guilty but mentally ill* or nolo contendere to, insurance fraud to pay:

(a) Court costs; and

(b) The cost of the investigation and prosecution of the insurance fraud for which the person was convicted or to which the person pleaded guilty *, guilty but mentally ill* or nolo contendere.

2. Any money received by the Attorney General pursuant to paragraph (b) of subsection 1 must be accounted for separately and used to pay the expenses of the Fraud Control Unit for Insurance established pursuant to NRS 228.412, and is hereby authorized for expenditure for that purpose. The money in the account does not revert to the State General Fund at the end of any fiscal year and must be carried forward to the next fiscal year.

3. An insurer or other organization, or any other person, subject to the jurisdiction of the Commissioner pursuant to this title shall be deemed to be a victim for the purposes of restitution in a case that involves insurance fraud or that is related to a claim of insurance fraud.

~~[Sec. 95.]~~ *Sec. 107.* NRS 686A.295 is hereby amended to read as follows:

686A.295 If a person who is licensed or registered under the laws of the State of Nevada to engage in a business or profession is convicted of *,* or pleads guilty *or guilty but mentally ill* to *,* engaging in an act of insurance fraud, the Commissioner and the Attorney General shall forward to each agency by which the convicted person is licensed or registered a copy of the conviction or plea and all supporting evidence of the act of insurance fraud. An agency that receives information from the Commissioner and Attorney General pursuant to this section shall, not later than 1 year after the date on which it receives the information, submit a report which sets forth the action taken by the agency against the convicted person, including, but not limited to, the revocation or suspension of the license or any other disciplinary action, to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

~~[Sec. 96.]~~ *Sec. 108.* NRS 688C.210 is hereby amended to read as follows:

688C.210 After notice, and after a hearing if requested, the Commissioner may suspend, revoke, refuse to issue or refuse to renew a license under this chapter if he finds that:

1. There was material misrepresentation in the application for the license;

2. The licensee or an officer, partner, member or significant managerial employee has been convicted of fraudulent or dishonest practices, is subject to a final administrative action for disqualification, or is otherwise shown to be untrustworthy or incompetent;

3. A provider of viatical settlements has engaged in a pattern of unreasonable payments to viators;

4. The applicant or licensee has been found guilty *or guilty but mentally ill* of, or pleaded guilty *, guilty but mentally ill* or nolo contendere to, a felony or a misdemeanor involving fraud, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude, whether or not a judgment of conviction has been entered by the court;

5. A provider of viatical settlements has entered into a viatical settlement in a form not approved pursuant to NRS 688C.220;

6. A provider of viatical settlements has failed to honor obligations of a viatical settlement;

7. The licensee no longer meets a requirement for initial licensure;

8. A provider of viatical settlements has assigned, transferred or pledged a viaticated policy to a person other than another provider licensed under this chapter, a purchaser of the viatical settlement, a special organization or a trust for a related provider;

9. The applicant or licensee has provided materially untrue information to an insurer that issued a policy that is the subject of a viatical settlement;

10. The applicant or licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

11. The applicant or licensee has violated a provision of this chapter.

~~[Sec. 97.]~~ *Sec. 109.* NRS 689.235 is hereby amended to read as follows:

689.235 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner;

(b) Must have a good business and personal reputation; and

(c) Must not have been convicted of, or entered a plea of guilty *, guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, social security number and personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of the fingerprints of the applicant and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the statement required pursuant to NRS 689.258.

(f) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty *, guilty but mentally ill* or nolo contendere by, an applicant or licensee for any crime listed in paragraph (c) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.265.

~~[Sec. 98.]~~ *Sec. 110.* NRS 689.235 is hereby amended to read as follows:

689.235 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner;

(b) Must have a good business and personal reputation; and

(c) Must not have been convicted of, or entered a plea of guilty *, guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of his fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty, *guilty but mentally ill* or nolo contendere by, an applicant or licensee for any crime listed in paragraph (c) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent′s license pursuant to NRS 689.265.

~~[Sec. 99.]~~ *Sec. 111.* NRS 689.520 is hereby amended to read as follows:

689.520 1. To qualify for an agent′s license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner; and

(b) Must not have been convicted of, or entered a plea of guilty *, guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant′s identity, address, social security number, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the statement required pursuant to NRS 689.258.

(f) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty *, guilty but mentally ill* or nolo contendere by, an applicant or licensee for any crime listed in paragraph (b)

of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.535.

~~[Sec. 100.]~~ *Sec. 112.* NRS 689.520 is hereby amended to read as follows:

689.520 1. To qualify for an agent's license, the applicant:

(a) Must file a written application with the Commissioner on forms prescribed by the Commissioner; and

(b) Must not have been convicted of, or entered a plea of guilty *, guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude.

2. The application must:

(a) Contain information concerning the applicant's identity, address, personal background and business, professional or work history.

(b) Contain such other pertinent information as the Commissioner may require.

(c) Be accompanied by a complete set of fingerprints and written permission authorizing the Commissioner to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(d) Be accompanied by a fee representing the amount charged by the Federal Bureau of Investigation for processing the fingerprints of the applicant.

(e) Be accompanied by the applicable fee established in NRS 680B.010, which is not refundable.

3. A conviction of, or plea of guilty, *guilty but mentally ill* or nolo contendere by, an applicant or licensee for any crime listed in paragraph (b) of subsection 1 is a sufficient ground for the Commissioner to deny a license to the applicant, or to suspend or revoke the agent's license pursuant to NRS 689.535.

~~[Sec. 101.]~~ *Sec. 113.* NRS 690B.029 is hereby amended to read as follows:

690B.029 1. A policy of insurance against liability arising out of the ownership, maintenance or use of a motor vehicle delivered or issued for delivery in this State to a person who is 55 years of age or older must contain a provision for the reduction in the premiums for 3-year periods if the insured:

(a) Successfully completes, after attaining 55 years of age and every 3 years thereafter, a course of traffic safety approved by the Department of Motor Vehicles; and

(b) For the 3-year period before completing the course of traffic safety and each 3-year period thereafter:

(1) Is not involved in an accident involving a motor vehicle for which the insured is at fault;

(2) Maintains a driving record free of violations; and

(3) Has not been convicted of , or entered a plea of guilty , *guilty but mentally ill* or nolo contendere to , a moving traffic violation or an offense involving:

(I) The operation of a motor vehicle while under the influence of intoxicating liquor or a controlled substance; or

(II) Any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955 or a law of any other jurisdiction that prohibits the same or similar conduct.

2. The reduction in the premiums provided for in subsection 1 must be based on the actuarial and loss experience data available to each insurer and must be approved by the Commissioner. Each reduction must be calculated based on the amount of the premium before any reduction in that premium is made pursuant to this section, and not on the amount of the premium once it has been reduced.

3. A course of traffic safety that an insured is required to complete as the result of moving traffic violations must not be used as the basis for a reduction in premiums pursuant to this section.

4. The organization that offers a course of traffic safety approved by the Department of Motor Vehicles shall issue a certificate to each person who successfully completes the course. A person must use the certificate to qualify for the reduction in the premiums pursuant to this section.

5. The Commissioner shall review and approve or disapprove a policy of insurance that offers a reduction in the premiums pursuant to subsection 1. An insurer must receive written approval from the Commissioner before delivering or issuing a policy with a provision containing such a reduction.

~~[Sec. 102.]~~ *Sec. 114.* NRS 692A.105 is hereby amended to read as follows:

692A.105 1. The Commissioner may refuse to license any title agent or escrow officer or may suspend or revoke any license or impose a fine of not more than $500 for each violation by entering an order to that effect, with his findings in respect thereto, if , upon a hearing, it is determined that the applicant or licensee:

(a) In the case of a title agent, is insolvent or in such a financial condition that he cannot continue in business with safety to his customers;

(b) Has violated any provision of this chapter or any regulation adopted pursuant thereto or has aided and abetted another to do so;

(c) Has committed fraud in connection with any transaction governed by this chapter;

(d) Has intentionally or knowingly made any misrepresentation or false statement to, or concealed any essential or material fact known to him from, any principal or designated agent of the principal in the course of the escrow business;

(e) Has intentionally or knowingly made or caused to be made to the Commissioner any false representation of a material fact or has suppressed or

withheld from him any information which the applicant or licensee possesses;

(f) Has failed without reasonable cause to furnish to the parties of an escrow their respective statements of the settlement within a reasonable time after the close of escrow;

(g) Has failed without reasonable cause to deliver, within a reasonable time after the close of escrow, to the respective parties of an escrow transaction any money, documents or other properties held in escrow in violation of the provisions of the escrow instructions;

(h) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter;

(i) Has been convicted of a felony relating to the practice of title agents or any misdemeanor of which an essential element is fraud;

(j) In the case of a title agent, has failed to maintain complete and accurate records of all transactions within the last 7 years;

(k) Has commingled the money of other persons with his own or converted the money of other persons to his own use;

(l) Has failed, before the close of escrow, to obtain written instructions concerning any essential or material fact or intentionally failed to follow the written instructions which have been agreed upon by the parties and accepted by the holder of the escrow;

(m) Has failed to disclose in writing that he is acting in the dual capacity of escrow agent or agency and undisclosed principal in any transaction;

(n) In the case of an escrow officer, has been convicted of, or entered a plea of guilty *, guilty but mentally ill* or nolo contendere to, any crime involving moral turpitude; or

(o) Has failed to obtain and maintain a copy of the executed agreement or contract that establishes the conditions for the sale of real property.

2. It is sufficient cause for the imposition of a fine or the refusal, suspension or revocation of the license of a partnership, corporation or any other association if any member of the partnership or any officer or director of the corporation or association has been guilty of any act or omission directly arising from the business activities of a title agent which would be cause for such action had the applicant or licensee been a natural person.

3. The Commissioner may suspend or revoke the license of a title agent, or impose a fine, if the Commissioner finds that the title agent:

(a) Failed to maintain adequate supervision of an escrow officer or title agent he has appointed or employed.

(b) Instructed an escrow officer to commit an act which would be cause for the revocation of the escrow officer's license and the escrow officer committed the act. An escrow officer is not subject to disciplinary action for committing such an act under instruction by the title agent.

4. The Commissioner may refuse to issue a license to any person who, within 10 years before the date of applying for a current license, has had suspended or revoked a license issued pursuant to this chapter or a comparable license issued by any other state, district or territory of the United States or any foreign country.

~~[Sec. 103.]~~ *Sec. 115.* NRS 697.150 is hereby amended to read as follows:

697.150 1. Except as otherwise provided in subsection 2, a person is entitled to receive, renew or hold a license as a bail agent if he:

(a) Is a resident of this State and has resided in this State for not less than 1 year immediately preceding the date of the application for the license.

(b) Is a natural person not less than 18 years of age.

(c) Has been appointed as a bail agent by an authorized surety insurer, subject to the issuance of the license.

(d) Is competent, trustworthy and financially responsible.

(e) Has passed any written examination required under this chapter.

(f) Has filed the bond required by NRS 697.190.

(g) Has, on or after July 1, 1999, successfully completed a 6-hour course of instruction in bail bonds that is:

(1) Offered by a state or national organization of bail agents or another organization that administers training programs for bail agents; and

(2) Approved by the Commissioner.

2. A person is not entitled to receive, renew or hold a license as a bail agent if he has been convicted of, or entered a plea of guilty *, guilty but mentally ill* or nolo contendere to, forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud or any crime involving moral turpitude. A conviction of, or plea of guilty *, guilty but mentally ill* or nolo contendere by, an applicant or licensee for any crime listed in this subsection is a sufficient ground for the Commissioner to deny a license to the applicant or to suspend or revoke the license of the agent.

Sec. 116. *The amendatory provisions of sections 14.5, 30 to 39, inclusive, and 41 of this act concerning the discharge or conditional release of a person committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services pursuant to NRS 175.539 apply to any such person who is in the custody of the Administrator on or after October 1, 2007.*

~~[Sec. 104.]~~ *Sec. 117.* 1. This section and sections 1 to ~~[40,]~~ *52,* inclusive, ~~[42 to 58, inclusive, 60, 62 to 67, inclusive, 69, 71 to 97,]~~ *54 to 70,* inclusive, ~~[99, 101, 102 and 103]~~ *72, 74 to 79, inclusive, 81, 83 to 109, inclusive, 111 and 113 to 116, inclusive,* of this act become effective on October 1, 2007.

2. Section ~~[40]~~ *52* of this act expires by limitation on June 30, 2009.

3. Sections ~~[58, 60, 67 and 69]~~ *70, 72, 79 and 81* of this act expire by limitation on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol

concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

4. Sections ~~[97]~~ *109* and ~~[99]~~ *111* of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

5. Section ~~[41]~~ *53* of this act becomes effective on July 1, 2009.

6. Sections ~~[59, 61, 68 and 70]~~ *71, 73, 80 and 82* of this act become effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State.

7. Sections ~~[98]~~ *110* and ~~[100]~~ *112* of this act become effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Washington moved that Assembly Bill No. 515 be taken from the Second Reading File and placed on the Secretary's desk.

Remarks by Senator Washington.

Motion carried.

Senator Nolan moved that Assembly Bill No. 604 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Remarks by Senator Nolan.

Motion carried.

Assembly Bill No. 52.

Bill read third time.

The following amendment was proposed by Senator Washington:

Amendment No. 962.

"SUMMARY—Makes various changes relating to domestic relations. (BDR 11-421)"

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

Legislative Counsel's Digest:

Under existing case law in Nevada, a court determining whether alimony should be awarded and the appropriate amount of alimony is required to consider several relevant factors including: (1) the financial condition of the parties; (2) the nature and value of their respective property; (3) the contribution of each party to any property held by both parties as tenants by the entirety; (4) the duration of the marriage; and (5) the income, earning capacity, age and health of each party. (*Buchanan v. Buchanan*, 90 Nev. 209, 215 (1974)) Section 1 of this bill codifies those factors as well as factors from subsequent case law so that a court must consider those factors when determining alimony. (*Buchanan*, 90 Nev. at 215; *Sprenger v. Sprenger*, 110 Nev. 855, 859 (1994); *Rodriguez v. Rodriguez*, 116 Nev. 993, 999 (2000))

Existing law sets forth the order of preference for an award of custody of a child unless in a particular case the best interest of the child requires otherwise. The order of preference for an award of custody is: (1) to both parents jointly or to either parent; (2) to a person or persons in whose home the child has been living and where the child has had a wholesome and stable environment; (3) to any person related within the third degree of consanguinity to the child whom the court finds suitable and able to provide proper care and guidance for the child; and (4) to any other person or persons whom the court finds suitable and able to provide proper care and guidance for the child. (NRS 125.480)

Section 1.5 of this bill revises the order of preference by adding the maternal or paternal grandparents of the child as third in the order of preference, following in preference the parents of the child and persons with whom the child has resided and preceding in preference other relatives and any other persons.

Existing law sets forth provisions governing the reporting of information concerning investigations of domestic violence. (NRS 171.1227) Section 4.5

of this bill revises the manner in which information concerning an investigation of domestic violence must be forwarded to the Central Repository for Nevada Records of Criminal History. Section 4.5 also requires the Director of the Department of Public Safety to prescribe the form in which such information must be supplied and lists additional information that must be contained in the form.

Section 5 of this bill requires the Director of the Department of Public Safety to submit a written report concerning the temporary and extended orders for protection against domestic violence issued in this State to the Director of the Legislative Counsel Bureau which includes the total number of temporary and extended orders granted, the number of grants of temporary custody that are included in such temporary and extended orders, the number of such orders that are issued to women and the number of such orders that are issued to men.

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

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

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

1. In granting a divorce, the court:

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

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

2. Except as otherwise provided in this subsection, in granting a divorce, the court shall dispose of any property held in joint tenancy in the manner set forth in subsection 1 for the disposition of community property. If a party has made a contribution of separate property to the acquisition or improvement of property held in joint tenancy, the court may provide for the reimbursement of that party for his contribution. The amount of reimbursement must not exceed the amount of the contribution of separate property that can be traced to the acquisition or improvement of property held in joint tenancy, without interest or any adjustment because of an increase in the value of the property held in joint tenancy. The amount of reimbursement must not exceed the value, at the time of the disposition, of the property held in joint tenancy for which the contribution of separate property was made. In determining whether to provide for the reimbursement, in whole or in part, of a party who has contributed separate property, the court shall consider:

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

(b) The length of the marriage; and

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

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

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

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

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

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

7. If a decree of divorce, or an agreement between the parties which was ratified, adopted or approved in a decree of divorce, provides for specified periodic payments of alimony, the decree or agreement is not subject to modification by the court as to accrued payments. Payments pursuant to a decree entered on or after July 1, 1975, which have not accrued at the time a motion for modification is filed may be modified upon a showing of changed circumstances, whether or not the court has expressly retained jurisdiction for the modification. In addition to any other factors the court considers relevant in determining whether to modify the order, the court shall consider whether the income of the spouse who is ordered to pay alimony, as indicated on the spouse's federal income tax return for the preceding calendar year, has been reduced to such a level that the spouse is financially unable to pay the amount of alimony he has been ordered to pay.

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

(a) The financial condition of each spouse;

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

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

(d) The duration of the marriage;

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

(f) The standard of living during the marriage;

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

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

(i) The contribution of either spouse as homemaker;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) The equivalent of a high school diploma;

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

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

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

Sec. 1.5. *NRS 125.480 is hereby amended to read as follows:*

125.480 1. In determining custody of a minor child in an action brought under this chapter, the sole consideration of the court is the best interest of the child. If it appears to the court that joint custody would be in the best interest of the child, the court may grant custody to the parties jointly.

2. Preference must not be given to either parent for the sole reason that the parent is the mother or the father of the child.

3. The court shall award custody in the following order of preference unless in a particular case the best interest of the child requires otherwise:

(a) To both parents jointly pursuant to NRS 125.490 or to either parent. If the court does not enter an order awarding joint custody of a child after either parent has applied for joint custody, the court shall state in its decision the reason for its denial of the parent′s application.

(b) To a person or persons in whose home the child has been living and where the child has had a wholesome and stable environment.

(c) *To the maternal or paternal grandparents of the child or a maternal or paternal grandparent of the child whom the court finds suitable and able to provide proper care and guidance for the child.*

(d) To any person related within the third degree of consanguinity to the child whom the court finds suitable and able to provide proper care and guidance for the child, regardless of whether the relative resides within this State.

~~[(d)]~~ *(e)* To any other person or persons whom the court finds suitable and able to provide proper care and guidance for the child.

4. In determining the best interest of the child, the court shall consider and set forth its specific findings concerning, among other things:

(a) The wishes of the child if the child is of sufficient age and capacity to form an intelligent preference as to his custody.

(b) Any nomination by a parent or a guardian for the child.

(c) Which parent is more likely to allow the child to have frequent associations and a continuing relationship with the noncustodial parent.

(d) The level of conflict between the parents.

(e) The ability of the parents to cooperate to meet the needs of the child.

(f) The mental and physical health of the parents.

(g) The physical, developmental and emotional needs of the child.

(h) The nature of the relationship of the child with each parent.

(i) The ability of the child to maintain a relationship with any sibling.

(j) Any history of parental abuse or neglect of the child or a sibling of the child.

(k) Whether either parent or any other person seeking custody has engaged in an act of domestic violence against the child, a parent of the child or any other person residing with the child.

5. Except as otherwise provided in subsection 6 or NRS 125C.210, a determination by the court after an evidentiary hearing and finding by clear and convincing evidence that either parent or any other person seeking custody has engaged in one or more acts of domestic violence against the child, a parent of the child or any other person residing with the child creates a rebuttable presumption that sole or joint custody of the child by the perpetrator of the domestic violence is not in the best interest of the child. Upon making such a determination, the court shall set forth:

(a) Findings of fact that support the determination that one or more acts of domestic violence occurred; and

(b) Findings that the custody or visitation arrangement ordered by the court adequately protects the child and the parent or other victim of domestic violence who resided with the child.

6. If after an evidentiary hearing held pursuant to subsection 5 the court determines that each party has engaged in acts of domestic violence, it shall, if possible, then determine which person was the primary physical aggressor. In determining which party was the primary physical aggressor for the purposes of this section, the court shall consider:

(a) All prior acts of domestic violence involving either party;

(b) The relative severity of the injuries, if any, inflicted upon the persons involved in those prior acts of domestic violence;

(c) The likelihood of future injury;

(d) Whether, during the prior acts, one of the parties acted in self-defense; and

(e) Any other factors which the court deems relevant to the determination.

➥ In such a case, if it is not possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies to both parties. If it is possible for the court to determine which party is the primary physical aggressor, the presumption created pursuant to subsection 5 applies only to the party determined by the court to be the primary physical aggressor.

7. As used in this section, ″domestic violence″ means the commission of any act described in NRS 33.018.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 4.5. NRS 171.1227 is hereby amended to read as follows:

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

designated by his supervisor, regardless of whether the peace officer makes an arrest.

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

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

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

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

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

(a) Aggregated each month; and

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

5. The Director of the Department of Public Safety shall prescribe the form on which the information described in subsection 4 must be reported to the Central Repository. In addition to the information required pursuant to subsections 1 and 2, the form must also require the inclusion of the following information from each report:

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

(b) The relationship of the persons involved;

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

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

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

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

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

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

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

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

Sec. 5. NRS 179A.350 is hereby amended to read as follows:

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

2. Except as otherwise provided in subsection ~~[4,]~~ *6,* the Repository for Information Concerning Orders for Protection Against Domestic Violence must contain a complete and systematic record of all temporary and extended orders for protection against domestic violence issued or registered in the State of Nevada, in accordance with regulations adopted by the Director of

the Department, including, without limitation, any information received pursuant to NRS 33.095. Information received by the Central Repository pursuant to NRS 33.095 must be entered in the Repository for Information Concerning Orders for Protection Against Domestic Violence not later than 8 hours after it is received by the Central Repository.

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

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

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

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

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

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

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

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

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

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

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, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that bills ready for consideration on Unfinished Business be placed on Unfinished Business for the next legislative day.

Remarks by Senator Raggio.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 66, 74, 87, 99; Senate Concurrent Resolution No. 46.

REMARKS FROM THE FLOOR

Senator Coffin requested that his remarks be entered in the Journal.

Thank you, Mr. President. I would like to speak on the subject of transportation. I am responding to a letter from my wife. My wife used to work in the newspaper business where she could sling ink by the barrel. Now, she has taken her savage pen to the electronic world where she sends messages to my friends, and me here, indicating we are not doing enough on transportation. I will take this opportunity to say, I do intend to stand up for something on transportation this Session. I trust we all will.

One thing I have noticed in all of the arguments, all of the discussions going on behind the scenes, with all of the bills introduced, there is a key aspect on transportation that seems to be missing. Everyone wants to tax everyone except for the people who do the most damage to the roads, the trucking industry. I noticed the Assembly was going to have a hearing today on a bill relating to the taxation of the trucking industry related to their use of the highways and the weight of the trucks, but it was cancelled. I have no idea where the issue will go. I asked people who were involved in some of these quiet little meetings, and they say, "oh, the truckers are there; they are at the table; then, they are not at the table, or they are there for a little fuel-tax increase…" but not for the weight-distance method that would provide for highways.

Let us think about what we need to keep these highways going. It is important. Commerce depends on it. But, commerce is the trucking industry to a great extent. Yet, if you have ever thought about why we have to build these roads so thick and so durable, it is because of the trucks. The roads are several feet thick. The trucks weigh a lot. Why do these roads need to be maintained? Why do they continually fall apart? It is because of the heavy vehicles. It is not because of the cars you drive, not because of the cars your constituents drive, but it is the trucks that tear up the roads.

Twenty-five years ago, during my freshman session, I served as Chair of the Transportation Committee in the Assembly. I first ran into this situation there. Someone proposed we tax vehicles of all kinds based upon the damage they do to the roads. I quickly discovered that the trucking lobby skillfully managed and was able to evade it and still is doing it. We are now, 25 years later with gas taxes up, with gas prices up, tussling with how to find $3 billion, $4 billion or $5 billion just for super projects.

I am not talking about the streets or highways the public thinks we are going to fix with this transportation bill. Our constituents think that this debate up here is about the roads they drive on in their neighborhoods or the arterial roads in town; it is not. We well know that the issue is super projects.

Who uses the super projects? The heavy trucks do. Study after study has been done, and they are all on file at the Nevada Department of Transportation. File cabinets are full of information; it takes any person with a little common sense to understand. That information shows there ought to be a different way of taxing the people who use the roads. That should apply to cars.

It is time to make a switch. We have been in fuel shortages and crisis for 35 years, and there is no better opportunity than now to serve the public well by treating them fairly. However, this is apparently not the time because every time I ask a question, truckers seem to be very happy and they brag that they are getting away with it. I got an e-mail from them the other day congratulating themselves, once again, on not having to face weight-distance.

The average truck, depending on the study you read, causes anywhere from 2,800 to 5,000 or 6,000 times the wear on the streets and highways than your average automobile does.

Our constituents and we have been played for fools and suckers for all of these years. If we do not have a bill that begins to address fair taxation on transportation in this Session, then I submit

that we will never climb out of the hole. If there ever was a time to address the need in an honest fashion, it is now. Certainly, I know all of the arguments against it. I have heard them for 25 years. We need to have an open mind toward the proper taxation of these vehicles, or you will not be going home making anyone happy. When those roads your constituents are driving on are not getting fixed, you will have no one to blame but yourselves. I am proposing to you that if anything comes out of this Session that does not contain some kind of fair tax for the motorist, then we should hang our heads in shame and admit we did nothing. Everything else is just a fig leaf. Everyone is trying to steal money from everyone else on this subject. Certain people are after convention authorities; others are after cabs. There seems to be a victim of the day. Yet, when we get down to it, the one group that seems to be manipulating it all are the ones who should be paying the most.

Think of all of the interest groups represented. I am not talking about my colleagues, but about all of the people around this building who represent interest groups. If they think that dipping into their funds is just a one-time thing for temporary repair of these roads, they are crazy. This is going to go on forever. If you take money for transportation out of the convention funds or there are more taxes on rental cars, these taxes are not going to go away. They are going to be here forever. We will not have served anyone. We will have cheated the taxpayers. We will have cheated the middle class. Let us play fair and play honest with our constituents. Thank you.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Washington, the privilege of the floor of the Senate Chamber for this day was extended to the following students and teachers from the Spanish Springs High School: William Abraczinskas, Calbeth Alaribe, Alyssa Alimurung, Cara Argall, Natalie Battaglia, Bailey Dinius, James Dow, Laura Flannagan, Abbay Fox, Brianne Gant, Katie Goodwin, Alyson Haley, Lily Helzer, Curtis Holder, Kyle Kingery, Billy Largent, Michelle Lewis, David Longo, Christopher McDaniel, Nettie Morris, Katherine Nelson, Erik Pizana, Michaell Poertner, Jayleen Popp, Mariah Seitzinger, Jeremy Stephens, Nicholas Taylor, Kelsea Tennyson, Katherine Ulibarri, Kylee Wagner, Herman Wong, Alejandro Aceves, Alexa Anderson, Kira Brown,Nichole Caprino, Allison Dickman, Victor Faz, Rachael Goor, Aleah Hartung, Kris Herrerias, Katelyn Hill, Amrita Kaur, Alexander King, Scott Lannom, Cody Lyford, Kendall Maloy, Sandra Martinez, Ryan Miner, Kember Murphy, Kirby Myers, Karas Orr, Sarah Pattee, Benjamin Rogers, Rachel Sullivan, Annakatherine Thompson, Richelle Urenda, John Von Nolde, Kylie Whitaker, Jessi Wilcox, Jonathan Avelar, Kyra Brown, Kevin Carr, Ryan Chambers, Christi Christofferson, Leah Donahue, Adrian Fontana, Maura Hansen, Timothy Ice, Brittany Kautzman, Damien McKinney, Kristina Meister, Davis Moore, Brian Mueller, Stephen Perwein, Christina Re, Lisa Rodriguea, Claire Schon, Gerardo Soto, Aaron Terry, Venicia Thomas, Christopher Townsend Dong, Nicholas York, Alexandria Arciniega, Ashlee Benton, Tristen Bertrand, Sarah Boyd, Bailey Brady, Ryan Brown, Fabiola Carrillo, Trevor Dall, Tyler Gallagher, James Gardner, Stephanie Harger, Jason Hoener, Jeremy Kibbe, Evan Lovell, Jessica McCloud, Grant Mormon, Samantha Resberry, Nicole Raymond, Manuel Reyes, Clint Robison, Jose Rodriguez, Joshua Shaner, Sara Soloman, Eric Sumersille, Amber Sunde, Jesus Torres, Austen Trefcer, Amylea Wilson, Travis Balsinger, Jennifer Botto, Garrett Brown, Savannah Carsten, Kathleen

Crandall, Jesse Dallmann, Tyrone Dunmore, Tabitha Erickson, Jessica Farley, Geneliza Roselle Flores, Tanner Freshman, Erin Hausauer-Samuel, Matthew Helleckson, Travis Jackson, Joshua Martin, Teri Mulhall, Michael Naughton, Ronnie Pratt, Lawrence Quadrio, Jennifer Reyes, Katie Sansone, Kevin Smith, Aaron Solomon, Jerick Tagoc, Curtis Wall, Cody Williams, Brian Woodrow, Adam Ashworth, Chad Bench, Edgar Bustillos, Luis Chacon, Francisco Covarrubia, Samuel Croarkin, Morgan Davis, Kerrie Delger, Kristina Dyer, Josefina Garcia-Chavez, Winta Haile, Adam Herriage-Todaro, Tara Hill, Troy Hubert, Brittney Jasinsky, Ashley McCrea, Luis Orozco, Luis Orozco, Keith Rash, Selene Salas, Daniel Sanchez, Kevin Sandoval, Brett Slizeski, Natasha Thrower; teachers: Brett Barry, Sean Hall, Brian Kelley, Rick Baird, Laura Molini, Kate Tousignant and Matt Faker.

Senator Raggio moved that the Senate adjourn until Friday, May 25, 2007, at 11 a.m.

Motion carried.

Senate adjourned at 3:36 p.m.

Approved: BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate