

THE ONE HUNDRED AND FOURTEENTH DAY

CARSON CITY (Tuesday), May 29, 2007

Senate called to order at 11:07 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Albert Tilstra.

Hear, O God, our Father, the earnest supplications of the Senators gathered for this sacred moment of prayer and deepen our feelings of unity and fellowship as we pray with them and for them.

Give us wisdom to see that no good life comes without right discipline. Give us the grace to impose it upon ourselves, lest others do it for us.

Help us to discipline our speech that we may seek clarity rather than cleverness and sincerity instead of sarcasm.

Help us to discipline our thinking and our actions that in this place the world may see government at its best and us at our best for government and for You then to use us.

We pray in Your 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 Commerce and Labor, to which was referred Assembly Bill No. 161, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

RANDOLPH J. TOWNSEND, *Chair*

Mr. President:

Your Committee on Finance, to which were referred Senate Bills Nos. 467, 469, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Finance, to which were rereferred Senate Bills Nos. 67, 381, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass as amended.

Also, your Committee on Finance, to which were referred Senate Bills Nos. 189, 192, 341, 464, 468, 571; Assembly Bills Nos. 202, 273, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Finance, to which were rereferred Senate Bills Nos. 321, 437, 476, 501, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM J. RAGGIO, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, May 25, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 510, 598.

Also, I have the honor to inform your honorable body that the Assembly amended, and on this day passed, as amended, Senate Bill No. 18, Amendments Nos. 709, 977; Senate Bill No. 196, Amendment No. 927; Senate Bill No. 201, Amendments Nos. 796, 1028; Senate Bill No. 234, Amendment No. 1032; Senate Bill No. 242, Amendment No. 959; Senate Bill No. 274, Amendments Nos. 945, 993; Senate Bill No. 288, Amendments Nos. 980, 1012; Senate Bill No. 328, Amendments Nos. 848, 1027; Senate Bill No. 354, Amendments Nos. 930, 1017; Senate Bill No. 401, Amendment No. 926; Senate Bill No. 412, Amendment No. 983; Senate Bill No. 436, Amendments Nos. 944, 1006; Senate Bill No. 516, Amendments Nos. 895, 1031; Senate Bill No. 542, Amendments Nos. 838, 1026; Senate Joint Resolution No. 2, Amendment No. 984, and respectfully requests your honorable body to concur in said amendments.

LUCINDA BENJAMIN

Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, May 26, 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. 125, 346.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bill No. 621.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 735 to Assembly Bill No. 41; Senate Amendment No. 936 to Assembly Bill No. 51; Senate Amendment No. 733 to Assembly Bill No. 53; Senate Amendment No. 563 to Assembly Bill No. 55; Senate Amendment No. 827 to Assembly Bill No. 64; Senate Amendment No. 742 to Assembly Bill No. 67; Senate Amendments Nos. 662, 762 to Assembly Bill No. 90; Senate Amendment No. 828 to Assembly Bill No. 91; Senate Amendment No. 682 to Assembly Bill No. 101; Senate Amendment No. 665 to Assembly Bill No. 112; Senate Amendment No. 882 to Assembly Bill No. 120; Senate Amendment No. 754 to Assembly Bill No. 137; Senate Amendment No. 799 to Assembly Bill No. 143; Senate Amendment No. 855 to Assembly Bill No. 145; Senate Amendment No. 763 to Assembly Bill No. 194; Senate Amendment No. 737 to Assembly Bill No. 195; Senate Amendment No. 738 to Assembly Bill No. 216; Senate Amendment No. 697 to Assembly Bill No. 227; Senate Amendment No. 849 to Assembly Bill No. 228; Senate Amendment No. 844 to Assembly Bill No. 239; Senate Amendment No. 773 to Assembly Bill No. 249; Senate Amendment No. 798 to Assembly Bill No. 342; Senate Amendment No. 947 to Assembly Bill No. 352; Senate Amendments Nos. 896, 1029 to Assembly Bill No. 375; Senate Amendment No. 785 to Assembly Bill No. 383; Senate Amendment No. 739 to Assembly Bill No. 406; Senate Amendment No. 806 to Assembly Bill No. 433; Senate Amendment No. 897 to Assembly Bill No. 468; Senate Amendment No. 856 to Assembly Bill No. 478; Senate Amendment No. 1000 to Assembly Bill No. 483; Senate Amendment No. 867 to Assembly Bill No. 517; Senate Amendment No. 701 to Assembly Bill No. 518; Senate Amendment No. 703 to Assembly Bill No. 535; Senate Amendment No. 743 to Assembly Joint Resolution No. 9; Senate Amendment No. 866 to Assembly Joint Resolution No. 10.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 886 to Assembly Bill No. 604 and respectfully refused to concur in Senate Amendment No. 987 to Assembly Bill No. 604.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 843 to Assembly Bill No. 13; Senate Amendment No. 711 to Assembly Bill No. 110; Senate Amendment No. 800 to Assembly Bill No. 142; Senate Amendment No. 669 to Assembly Bill No. 148; Senate Amendment No. 911 to Assembly Bill No. 304; Senate Amendment No. 1014 to Assembly Bill

No. 335; Senate Amendment No. 734 to Assembly Bill No. 424; Senate Amendments Nos. 928, 943 to Assembly Bill No. 497.

LUCINDA BENJAMIN
Assistant Chief Clerk of the Assembly

ASSEMBLY CHAMBER, Carson City, May 28, 2007

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 271, 591.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 758 to Assembly Bill No. 25; Senate Amendments Nos. 761, 968 to Assembly Bill No. 87; Senate Amendment No. 790 to Assembly Bill No. 92; Senate Amendment No. 755 to Assembly Bill No. 193; Senate Amendment No. 937 to Assembly Bill No. 247; Senate Amendment No. 813 to Assembly Bill No. 263; Senate Amendment No. 1019 to Assembly Bill No. 296; Senate Amendment No. 756 to Assembly Bill No. 364; Senate Amendments Nos. 805, 969 to Assembly Bill No. 373; Senate Amendment No. 815 to Assembly Bill No. 386; Senate Amendment No. 857 to Assembly Bill No. 404; Senate Amendment No. 834 to Assembly Bill No. 410; Senate Amendments Nos. 807, 1004 to Assembly Bill No. 439; Senate Amendment No. 817 to Assembly Bill No. 490; Senate Amendment No. 752 to Assembly Bill No. 498; Senate Amendments Nos. 883, 1003 to Assembly Bill No. 514; Senate Amendments Nos. 702, 991 to Assembly Bill No. 526; Senate Amendment No. 950 to Assembly Bill No. 558; Senate Amendment No. 564 to Assembly Bill No. 562; Senate Amendment No. 772 to Assembly Bill No. 592; Senate Amendment No. 851 to Assembly Bill No. 600.

Also, I have the honor to inform your honorable body that the Assembly on this day concurred in the Senate Amendment No. 770 to Assembly Bill No. 178 and respectfully refused to concur in Senate Amendment No. 1013 to Assembly Bill No. 178.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to concur in the Senate Amendment No. 792 to Assembly Bill No. 127; Senate Amendment No. 952 to Assembly Bill No. 244; Senate Amendment No. 812 to Assembly Bill No. 285; Senate Amendments Nos. 978, 1002, 1024, 910 to Assembly Bill No. 396; Senate Amendment No. 816 to Assembly Bill No. 443; Senate Amendment No. 898 to Assembly Bill No. 496; Senate Amendments Nos. 784, 1021 to Assembly Bill No. 521; Senate Amendment No. 713 to Assembly Bill No. 585.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 129, Assembly Amendment No. 671, and requests a conference, and appointed Assemblymen Gerhardt, Anderson and Carpenter as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 143, Assembly Amendments Nos. 820, 933, and requests a conference, and appointed Assemblymen Smith, Kihuen and Hardy as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 184, Assembly Amendment No. 821, and requests a conference, and appointed Assemblymen Parnell, Segerblom and Stewart as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 239, Assembly Amendment No. 822, and requests a conference, and appointed Assemblymen Smith, Denis and Stewart as a first Conference Committee to meet with a like committee of the Senate.

Also, I have the honor to inform your honorable body that the Assembly on this day respectfully refused to recede from its action on Senate Bill No. 244, Assembly Amendment No. 699, and requests a conference, and appointed Assemblymen Gerhardt, Pierce and Stewart as a first Conference Committee to meet with a like committee of the Senate.

LUCINDA BENJAMIN
Assistant Chief Clerk of the Assembly

MOTIONS, RESOLUTIONS AND NOTICES

Senator Raggio moved that for the remainder of the legislative session, Senate Standing Rule No. 92 be suspended which pertains to committee meetings' notice of bills, topics and public hearings.

Remarks by Senator Raggio.

Motion carried.

Senator Washington moved that Senate Bill No. 536 be taken from Unfinished Business on the second agenda and placed on Unfinished Business for the next legislative day.

Remarks by Senator Washington.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 271.

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

Motion carried.

Assembly Bill No. 510.

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

Motion carried.

Assembly Bill No. 591.

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

Motion carried.

Assembly Bill No. 598.

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

Motion carried.

Assembly Bill No. 621.

Senator Nolan moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

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

Motion carried.

Senate in recess at 11:19 a.m.

SENATE IN SESSION

At 11:26 a.m.

President Krolicki presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 115.

Bill read third time.

Senator Amodei moved that Assembly Bill No. 115 be taken from the General File and placed on the Secretary's desk.

Remarks by Senator Amodei.

Motion carried.

UNFINISHED BUSINESS

CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 69.

The following Assembly amendment was read:

Amendment No. 938.

"SUMMARY—Revises provisions related to real estate brokers, salesmen and qualified intermediaries. (BDR 54-457)"

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

Legislative Counsel's Digest:

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

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

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

Existing law allows a person to negotiate a sale, exchange or lease of real estate with the exclusive client of another broker only if permission has been obtained from that other broker. (NRS 645.635) Section 4 of this bill allows for further communications after such negotiations but before closing.

~~[Section 4 also clarifies that such negotiations do not create an agency relationship between the person and the client of the other broker.]~~

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

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

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

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

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

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

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

645.0005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645.001 to 645.042, inclusive, and section ~~1.1~~ *1.3 of this act* have the meanings ascribed to them in those sections.

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

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

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

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

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

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

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

(1) A description of the real estate transaction.

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

(3) A statement that the licensee will not disclose any confidential information for 1 year after the revocation or termination of any brokerage agreement entered into with a party to the transaction, unless he is required to

do so by a court of competent jurisdiction or he is given written permission to do so by that party.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(b) Presenting~~ ;

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

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

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

~~(d) Advising~~ :

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Senator Townsend moved that the Senate concur in the Assembly amendment to Senate Bill No. 69.

Remarks by Senators Townsend and Schneider.

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

Thank you, Mr. President. The federal government was looking at this bill and following it all the way through the process. They contacted the Assembly after we presented this to them. This bill got some national attention. The federal government would like to see this legislation enacted.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 92.

The following Assembly amendment was read:

Amendment No. 789.

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

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

Legislative Counsel's Digest:

Assembly Bill No. 147 of the 1989 Legislative Session (Chapter 308, Statutes of Nevada 1989, p. 653) reserved for the Legislature the rights and powers necessary to regulate the transfer, sale, purchase, possession, ownership, transportation, registration and licensing of firearms and ammunition in this State. However, section 5 of Assembly Bill No. 147 provided that the preemptive effect of the bill applied only to ordinances or regulations adopted by local governments on or after June 13, 1989. This bill requires the amendment of ordinances or regulations adopted by local governments before June 13, 1989, that require registration of a firearm capable of being concealed to impose: (1) a period of at least 60 days of residency in the jurisdiction before registration of such a firearm is required; and (2) a period of at least 72 hours for the registration of a pistol by a resident of the jurisdiction upon transfer of title to the pistol to the resident by purchase, gift or any other transfer.

For the purposes of the amendatory provisions of this bill relating to the registration of firearms, and for the purposes of the authority of local governments to proscribe the unsafe discharge of firearms, this bill revises the definition of "firearm" to use the more narrow definition set forth in NRS 202.253, pursuant to which a firearm is a device designed to be used as a weapon from which a projectile may be expelled through the barrel by the force of any explosion or other form of combustion. For the purposes of state preemption of the local regulation of firearms, this bill retains the broader definition of "firearm" already used in NRS 244.364, 268.418 and 269.222, pursuant to which a firearm is any weapon from which a projectile is discharged by means of an explosive, spring, gas, air or other force.

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

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

244.364 1. Except as otherwise provided by specific statute, the Legislature reserves for itself such rights and powers as are necessary to regulate the transfer, sale, purchase, possession, ownership, transportation, registration and licensing of firearms and ammunition in Nevada, and no county may infringe upon those rights and powers. As used in this subsection, "firearm" means any weapon from which a projectile is discharged by means of an explosive, spring, gas, air or other force.

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

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

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

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

4. ~~As~~ Except as otherwise provided in subsection 1, as used in this section [, "firearm"] :

(a) "Firearm" means any device designed to be used as a weapon from which a projectile ~~is discharged by means of an explosive, spring, gas, air or other force.~~ may be expelled through the barrel by the force of any explosion or other form of combustion.

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

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

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

268.418 1. Except as otherwise provided by specific statute, the Legislature reserves for itself such rights and powers as are necessary to regulate the transfer, sale, purchase, possession, ownership, transportation, registration and licensing of firearms and ammunition in Nevada, and no city may infringe upon those rights and powers. As used in this subsection, "firearm" means any weapon from which a projectile is discharged by means of an explosive, spring, gas, air or other force.

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

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

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

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

4. ~~As~~ Except as otherwise provided in subsection 1, as used in this section ~~["firearm"]~~ :

(a) "Firearm" means any device designed to be used as a weapon from which a projectile ~~is discharged by means of an explosive, spring, gas, air or other force.~~ may be expelled through the barrel by the force of any explosion or other form of combustion.

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

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

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

269.222 1. Except as otherwise provided by specific statute, the Legislature reserves for itself such rights and powers as are necessary to regulate the transfer, sale, purchase, possession, ownership, transportation, registration and licensing of firearms and ammunition in Nevada, and no town may infringe upon those rights and powers. As used in this subsection, "firearm" means any weapon from which a projectile is discharged by means of an explosive, spring, gas, air or other force.

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

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

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

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

4. ~~As~~ *Except as otherwise provided in subsection 1, as* used in this section ~~["firearm"]~~:

(a) *"Firearm" means any device designed to be used as a weapon from which a projectile is discharged by means of an explosive, spring, gas, air or other force, may be expelled through the barrel by the force of any explosion or other form of combustion.*

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

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

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

Sec. 5. ~~The~~

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

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

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

Senator Hardy moved that the Senate concur in the Assembly amendment to Senate Bill No. 92.

Remarks by Senator Hardy.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 95.

The following Assembly amendment was read:

Amendment No. 954.

"SUMMARY—Revises provisions governing public utilities. (BDR 58-552)"

"AN ACT relating to public utilities; removing certain entities from regulation as public utilities; eliminating the requirement that the Public Utilities Commission of Nevada conduct a hearing before ordering certain changes relating to railroad crossings; eliminating the requirement that the

Commission convene a hearing not later than 60 days after a plan to increase the supply of electricity or decrease the demand for electricity is filed with the Commission; ~~[exempting certain]~~ revising provisions governing the exemption of electric generating plants ; ~~[from provisions governing the construction of utility facilities];~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the Public Utilities Commission of Nevada to regulate public utilities in this State. (NRS 704.001) Existing law defines the term "public utility." (NRS 704.020) Section 1 of this bill removes radio and broadcasting companies, companies that own cars used as part of railroad trains and companies that operate a ditch, flume, tunnel or tunnel and drainage system from regulation as public utilities.

Existing law authorizes the Commission, after an investigation and hearing, to order certain changes relating to railroad crossings. (NRS 704.300) Section 2 of this bill removes the requirement that the Commission conduct a hearing before ordering such changes.

Existing law requires that an electric utility submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission every 3 years. (NRS 704.741) Existing law requires the Commission to convene a hearing on such a plan not later than 60 days after the plan is submitted to the Commission. (NRS 704.746) Section 5 of this bill removes the requirement that the hearing be convened within that 60-day period. Existing law also requires the Commission to accept the plan as filed or specify the portions of the plan it finds inadequate within 135 days after the plan is filed. (NRS 704.751) Section 5 extends that deadline to 180 days after the plan is filed for certain portions of the plan, but retains the 135-day deadline with respect to an amendment to an accepted plan.

Existing law sets forth a permitting process for the construction of a utility facility to minimize the environmental impact of the facility. (NRS 704.820-704.900) Existing law exempts from the permitting process certain electric generating plants which use renewable energy as their primary source of energy to generate electricity and which have a limited generating capacity. (NRS 704.860) Section 6 of this bill ~~[exempts all]~~ increases the maximum allowable generating capacity of such exempt electric generating plants ; ~~[from the permitting process regardless of their generating capacity].~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 704.020 is hereby amended to read as follows:

704.020 1. "Public utility" or "utility" includes:

(a) Any person who owns, operates, manages or controls any railroad or part of a railroad as a common carrier in this State, or cars or other equipment used thereon, or bridges, terminals, or sidetracks, or any docks or wharves or

storage elevators used in connection therewith, whether or not they are owned by the railroad.

(b) Any telephone company that provides a telecommunication service to the public, but only with regard to those operations of the telephone company which consist of providing a telecommunication service to the public.

~~[(c) Any radio or broadcasting company or instrumentality that provides a common or contract service.~~

~~(d) Any company that owns cars of any kind or character, used and operated as a part of railroad trains, in or through this State. All duties required of and penalties imposed upon any railroad or any officer or agent thereof are, insofar as applicable, required of and imposed upon the owner or operator of any telephone company that provides a telecommunication service to the public, any radio or broadcasting company or instrumentality that provides a common or contract service and any company that owns cars of any kind or character, used and operated as a part of railroad trains in or through this State, and their officers and agents, and the Commission may supervise and control all such companies, instrumentalities and persons to the same extent as railroads.]~~

2. "Public utility" or "utility" also includes:

(a) ~~[Any person who owns, operates or controls any ditch, flume, tunnel or tunnel and drainage system, charging rates, fares or tolls, directly or indirectly.~~

~~(b)]~~ Any plant or equipment, or any part of a plant or equipment, within this State for the production, delivery or furnishing for or to other persons, including private or municipal corporations, heat, gas, coal slurry, light, power in any form or by any agency, water for business, manufacturing, agricultural or household use, or sewerage service, whether or not within the limits of municipalities.

~~[(c)]~~ (b) Any system for the distribution of liquefied petroleum gas to 10 or more users.

➡ The Commission may supervise, regulate and control all such utilities, subject to the provisions of this chapter and to the exclusion of the jurisdiction, regulation and control of such utilities by any municipality, town or village, unless otherwise provided by law.

3. The provisions of this chapter and the term "public utility" apply to all railroads, express companies, car companies and all associations of persons, whether or not incorporated, that do any business as a common carrier upon or over any line of railroad within this State.

Sec. 2. NRS 704.300 is hereby amended to read as follows:

704.300 1. After an investigation ~~[and hearing, which has been]~~ initiated either upon the Commission's own motion ~~[.]~~ or as the result of the filing of a formal application or complaint by the Department of Transportation, the board of county commissioners of any county, the town board or council of any town or municipality, or any railroad company, the

Commission may ~~{determine, and}~~ order for the safety of the traveling public:

(a) The elimination, alteration, addition or change of a highway crossing or crossings over any railroad at grade, or above or below grade, including its approaches and surface.

(b) Changes in the method of crossing at grade, or above or below grade.

(c) The closing of a crossing and the substitution of another therefor.

(d) The removal of obstructions to the public view in approaching any crossing.

(e) Such other details of use, construction and operation as may be necessary to make grade-crossing elimination, changes and betterments for the protection of the public and the prevention of accidents effective.

2. The Commission shall order that the cost of any elimination, removal, addition, change, alteration or betterment so ordered must be divided and paid in such proportion by the State, county, town or municipality and the railroad or railroads interested as is provided according to the circumstances occasioning the cost ~~{,}~~ in NRS 704.305.

3. ~~{All}~~ *If the Commission chooses to conduct a hearing before issuing an order pursuant to subsection 1, all costs incurred by reason of ~~{any hearing held under this section before the Commission,}~~ the hearing,* including , but not limited to , publication of notices, reporting, transcripts and rental of hearing room, must be apportioned 50 percent to the governmental unit or units affected and 50 percent to the railroad or railroads.

Sec. 3. NRS 704.673 is hereby amended to read as follows:

704.673 ~~{Every}~~

1. *Except as otherwise provided in subsection 2, every cooperative association or nonprofit corporation or association and every other supplier of services described in this chapter supplying such services for the use of the public and for the use of its own members is hereby declared to be affected with a public interest, to be a public utility, and to be subject to the jurisdiction, control and regulation of the Commission and to the provisions of this chapter . ~~{, but in}~~*

2. *In the case of the acquisition of the certificate or all or any part of the territory of a public utility, as defined in paragraph ~~{(b)}~~ (a) of subsection 2 of NRS 704.020, by a cooperative association or nonprofit corporation or association which ~~{prior to}~~ before April 26, 1963, had supplied services for the use of its own members only, ~~{this section shall not be}~~ the provisions of subsection 1 are not applicable for a period of 6 months or the expiration of such reasonable extension or extensions of ~~{such}~~ that 6-month period as may be ordered by the Commission, during which period the cooperative association or nonprofit corporation or association may enroll as its members the customers of the public utility whose certificate or territory was acquired so as to make such acquiring cooperative association or nonprofit corporation or association subject only to the limited jurisdiction, control and regulation*

of the Commission, and only to the specific provisions of chapter 704 of NRS as provided by NRS 704.675.

Sec. 4. NRS 704.746 is hereby amended to read as follows:

704.746 1. ~~[Not more than 60 days after]~~ *After* a utility has filed its plan ~~[,]~~ *pursuant to NRS 704.741*, the Commission shall convene a public hearing on the adequacy of the plan.

2. At the hearing any interested person may make comments to the Commission regarding the contents and adequacy of the plan.

3. After the hearing, the Commission shall determine whether:

(a) The forecast requirements of the utility are based on substantially accurate data and an adequate method of forecasting.

(b) The plan identifies and takes into account any present and projected reductions in the demand for energy that may result from measures to improve energy efficiency in the industrial, commercial, residential and energy producing sectors of the area being served.

(c) The plan adequately demonstrates the economic, environmental and other benefits to this State and to the customers of the utility, associated with the following possible measures and sources of supply:

(1) Improvements in energy efficiency;

(2) Pooling of power;

(3) Purchases of power from neighboring states or countries;

(4) Facilities that operate on solar or geothermal energy or wind;

(5) Facilities that operate on the principle of cogeneration or hydrogeneration; and

(6) Other generation facilities.

4. The Commission may give preference to the measures and sources of supply set forth in paragraph (c) of subsection 3 that:

(a) Provide the greatest economic and environmental benefits to the State;

(b) Are consistent with the provisions of this section; and

(c) Provide levels of service that are adequate and reliable.

5. The Commission shall:

(a) Adopt regulations which determine the level of preference to be given to those measures and sources of supply; and

(b) Consider the value to the public of using water efficiently when it is determining those preferences.

Sec. 5. NRS 704.751 is hereby amended to read as follows:

704.751 1. ~~[Within 135 days after]~~ *After* a utility has filed ~~[its plan,]~~ *the plan required pursuant to NRS 704.741*, the Commission shall issue an order accepting the plan as filed or specifying any portions of the plan it deems to be inadequate ~~[,]~~ :

(a) *Within 135 days for any portion of the plan relating to the energy supply plan for the utility for the 3 years covered by the plan; and*

(b) *Within 180 days for all portions of the plan not described in paragraph (a).*

2. *If a utility files an amendment to a plan, the Commission shall issue an order accepting the amendment as filed or specifying any portions of the amendment it deems to be inadequate within 135 days of the filing of the amendment.*

3. All prudent and reasonable expenditures made to develop the utility's plan, including environmental, engineering and other studies, must be recovered from the rates charged to the utility's customers.

Sec. 6. NRS 704.860 is hereby amended to read as follows:

704.860 "Utility facility" means:

1. Electric generating plants and their associated facilities, except:

(a) Electric generating plants and their associated facilities that are or will be located entirely within the boundaries of a county whose population is 100,000 or more; or

(b) Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity ~~for~~ and which have or will have a generating capacity of not more than ~~[150 kilowatts.]~~ 35 megawatts, including, without limitation, a net metering system, as defined in NRS 704.771.

➡ As used in this subsection, "associated facilities" includes, without limitation, any facilities for the storage, transmission or treatment of water, including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.

2. Electric transmission lines and transmission substations that:

(a) Are designed to operate at 200 kilovolts or more;

(b) Are not required by local ordinance to be placed underground; and

(c) Are constructed outside any incorporated city.

3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside:

(a) Any incorporated city; and

(b) Any county whose population is 100,000 or more.

4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations.

5. Sewer transmission and treatment facilities.

Sec. 7. Notwithstanding any other provision of law to the contrary:

1. Perfection or notice provided by a security instrument covering real or personal property located in this State which was filed with the Secretary of State or recorded in the office of a county recorder before July 1, 2007, in compliance with the provisions of chapter 105 of NRS, by a person who, on and after July 1, 2007, is not subject to regulation as a public utility pursuant to NRS 704.020, as amended by section 1 of this act, remains effective for the period provided by the law in effect at the time of its filing or recordation.

2. Such an instrument may be filed anew pursuant to NRS 104.9101 to 104.9709, inclusive, and if so filed has the effect given to security

instruments originally filed pursuant to NRS 104.9101 to 104.9709, inclusive. The priority of such a filing dates from the time that the security interest was first filed with the Secretary of State or recorded in the office of a county recorder and not from the date the instrument is filed anew pursuant to NRS 104.9101 to 104.9709, inclusive.

Sec. 8. This act becomes effective on July 1, 2007.

Senator Townsend moved that the Senate concur in the Assembly amendment to Senate Bill No. 95.

Remarks by Senator Townsend.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 101.

The following Assembly amendment was read:

Amendment No. 746.

"SUMMARY—Amends the Charter of the City of Sparks. (BDR S-335)"

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

Legislative Counsel's Digest:

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

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

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

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

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

responsibility or authority concerning the subject matter of such employment.

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

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

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

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

(a) *An employee of the City;*

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

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

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

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

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

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

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

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

Senator Hardy moved that the Senate concur in the Assembly amendment to Senate Bill No. 101.

Remarks by Senator Hardy.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 117.

The following Assembly amendment was read:

Amendment No. 747.

"SUMMARY—Exempts certain contracts entered into by the Board of Trustees of the Reno-Tahoe Airport Authority from certain requirements. (BDR S-809)"

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

Legislative Counsel's Digest:

Under existing law, the Reno-Tahoe Airport Authority is subject, with certain exceptions, to the Local Government Purchasing Act and requirements relating to competitive bidding on public works. (Chapters 332, 338 and 339 of NRS; Reno-Tahoe Airport Authority Act §§ 9, 9.5, 10.2) This bill exempts the Authority from the Local Government Purchasing Act and certain requirements relating to contracts for public works ~~for contracts entered into by the Board of Trustees of the Authority for a project concerning which the relevant information has been determined~~ for the construction or installation of an integrated in-line explosive detection system that is mandated by the Transportation Security Administration of the United States Department of Homeland Security. ~~to constitute sensitive security information pursuant to 49 C.F.R. Part 1520.~~ This bill also provides that such exemption expires by limitation on July 1, 2009.

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

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

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

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

3. As used in this section:

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

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

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

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

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

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

Senator Hardy moved that the Senate concur in the Assembly amendment to Senate Bill No. 117.

Remarks by Senator Hardy.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 136.

The following Assembly amendment was read:

Amendment No. 680.

"SUMMARY—Designates the month of May of each year as Archeological Awareness and Historic Preservation Month in Nevada. (BDR 19-213)"

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

Legislative Counsel's Digest:

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

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

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

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

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

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

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

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

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

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

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

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

Senator Hardy moved that the Senate concur in the Assembly amendment to Senate Bill No. 136.

Remarks by Senator Hardy.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 140.

The following Assembly amendment was read:

Amendment No. 781.

"SUMMARY—Revises provisions relating to the Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations. (BDR 27-609)"

"AN ACT relating to purchasing; requiring organizations that wish to participate in the Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations to register with and submit quarterly reports to the Rehabilitation Division of the Department of

Employment, Training and Rehabilitation; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the Rehabilitation Division of the Department of Employment, Training and Rehabilitation to establish a Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations. (NRS 334.025) Existing law also authorizes an exception to the competitive bidding process for purchasing by the State and by local governments from organizations and agencies whose primary purpose is the training and employment of persons with mental or physical disabilities. (NRS 332.117, 333.375) Sections 1-3 of this bill require organizations that wish to participate in the Program and qualify for the exemption to the competitive bidding process to register with, and to submit quarterly reports to, the Rehabilitation Division.

Section 4 of this bill requires the Administrator of the Division to review the registration and reporting requirements imposed by this bill and to report on that review to the 75th Session of the Nevada Legislature.

Section ~~14~~ 5 of this bill repeals the expiration of section 14 of chapter 377, Statutes of Nevada 2005, at page 1445. *Thus, the changes made by section 14 of that chapter of Statutes of Nevada to NRS 334.025 will no longer expire by limitation on June 30, 2013, and the Program will continue to be administered by the Division instead of a Committee on Employment of Persons with Disabilities created by the Governor.*

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

Section 1. NRS 332.117 is hereby amended to read as follows:

332.117 1. ~~[A]~~ In accordance with the Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations established pursuant to NRS 334.025, a governing body of a local government or its authorized representative may award, without complying with the requirements for competitive bidding set forth in this chapter, a contract for services or for the purchase of supplies, materials, equipment or labor to an organization or agency whose primary purpose is the training and employment of persons with a mental or physical disability, including, without limitation, a community-based training center for the care and training of mentally and functionally retarded persons described in chapter 435 of NRS.

2. An organization or agency that ~~[wishes]~~ :

(a) ~~[Wishes]~~ to submit a bid for such a contract must ~~[establish]~~ :

(1) Register with the Rehabilitation Division of the Department of Employment, Training and Rehabilitation as required pursuant to NRS 334.025; and

(2) Establish a fair-market price for those services, supplies, materials, equipment or labor by conducting a market survey and must include the survey with the bid submitted to the local government.

(b) Is awarded such a contract must report quarterly to the Rehabilitation Division as required pursuant to NRS 334.025.

Sec. 2. NRS 333.375 is hereby amended to read as follows:

333.375 1. The provisions of NRS 331.100 notwithstanding, *and in accordance with the Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations established pursuant to NRS 334.025*, the Purchasing Division may award without accepting competitive bids a contract for services or the purchase of commodities to organizations or agencies whose primary purpose is the training and employment of persons with a mental or physical disability, including, without limitation, a community-based training center for the care and training of mentally and functionally retarded persons described in chapter 435 of NRS.

2. An organization or agency that ~~[wishes]~~ :

(a) ~~Wishes~~ to submit a bid for such a contract must ~~[establish]~~ :

(1) Register with the Rehabilitation Division of the Department of Employment, Training and Rehabilitation as required pursuant to NRS 334.025; and

(2) Establish a fair-market price for those services or commodities by conducting a market survey and must include the survey with the bid submitted to the Purchasing Division.

(b) Is awarded such a contract must report quarterly to the Rehabilitation Division as required pursuant to NRS 334.025.

Sec. 3. NRS 334.025 is hereby amended to read as follows:

334.025 1. The Rehabilitation Division of the Department of Employment, Training and Rehabilitation shall establish and administer a Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations.

2. The Program may include:

(a) A method for assisting an agency that wishes to purchase commodities or services from an organization to locate such commodities and services that meet the needs of the agency;

(b) A method for assisting an organization to locate an agency that wishes to purchase commodities or services from organizations;

(c) A method for encouraging agencies to purchase commodities and services from organizations;

(d) A method to review objections to an award of a contract to an organization, which method must be limited to a review of the process used for awarding the contract to ensure that the appropriate procedures were followed in awarding the contract;

(e) The establishment of a percentage, not to exceed 4 percent, of the full amount of payment to an organization which is awarded a contract for all commodities and services to be provided to the agency pursuant to the contract that is sufficient to pay the cost to the Rehabilitation Division of establishing and administering the Program; and

(f) A method for collecting information from an agency in a report to the Rehabilitation Division, which report may include, without limitation:

(1) The number of persons currently employed at the agency who are mentally or physically disabled; and

(2) The number of contracts the agency has entered into pursuant to the Program which are currently in effect and a list of the organizations with which the agency has entered such contracts.

3. *An organization that wishes to participate in the Program must register with the Rehabilitation Division on a form prescribed by the Administrator before contacting any agency concerning entering into a contract pursuant to the Program.*

4. In administering the Program, the Rehabilitation Division shall, upon request of an agency or organization, assist the agency or organization in establishing a contract for the purchase of commodities or services.

~~{4-}~~ 5. A contract entered into pursuant to the Program must provide for a payment to the Rehabilitation Division in an amount equal to the full amount of payment to the organization for all commodities and services to be provided to the agency pursuant to the contract multiplied by the percentage established pursuant to paragraph (e) of subsection 2.

~~{5-}~~ 6. *An organization that has entered into a contract with an agency pursuant to the Program shall report quarterly to the Rehabilitation Division, on a form prescribed by the Administrator, such information as the Rehabilitation Division deems necessary to administer the Program.*

7. *The Administrator may adopt regulations to carry out the provisions of this section.*

8. As used in this section:

(a) "Administrator" means the Administrator of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation.

(b) "Agency" means a local government as defined in NRS 332.015 and using agencies as defined in NRS 333.020.

~~{(b)}~~ (c) "Organization" means an organization whose primary purpose is the training and employment of mentally or physically disabled persons, including, without limitation, community-based training centers for the care and training of mentally and functionally retarded persons described in chapter 435 of NRS.

Sec. 4. 1. The Administrator of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation shall review the registration and reporting requirements imposed by the amendatory provisions of this act.

2. The Administrator shall prepare a report summarizing the review and submit the report by July 1, 2008, to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission and to the 75th Session of the Nevada Legislature. The report must be made available to the general public.

~~[Sec. 4.]~~ Sec. 5. Section 18 of Chapter 377, Statutes of Nevada 2005, at page 1445, is hereby amended to read as follows:

Sec. 18. 1. This section and sections 1 to ~~[14,]~~ 13, inclusive, and 17 of this act become effective upon passage and approval and expire by limitation on June 30, 2013.

2. *Section 14 of this act becomes effective upon passage and approval.*

3. Section 16 of this act becomes effective on July 1, 2005.

~~[3.]~~ 4. Section 15 of this act becomes effective on July 1, 2007, and expires by limitation on June 30, 2013.

~~[Sec. 5.]~~ Sec. 6. This act becomes effective upon passage and approval.

Senator Hardy moved that the Senate concur in the Assembly amendment to Senate Bill No. 140.

Remarks by Senator Hardy.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 146.

The following Assembly amendment was read:

Amendment No. 903.

"SUMMARY—Authorizes the boards of county commissioners of certain counties to levy an ad valorem tax to pay the costs of operating a regional facility for the detention of children. (BDR 31-937)"

"AN ACT relating to the financial administration of counties; authorizing the boards of county commissioners of certain counties to levy an ad valorem tax to pay the costs of operating a regional facility for the detention of children; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the boards of county commissioners of at least two counties to levy a property tax of 5 cents per \$100 of the assessed valuation of the property in those counties to pay the costs of operating a regional facility, including certain regional facilities for the detention of children for which those counties are required to pay an assessment for its operation. (NRS 354.557, 354.59818) This bill authorizes the boards of county commissioners of ~~[at least two]~~ counties whose populations are less than 100,000 (currently counties other than Clark and Washoe Counties) to levy a separate property tax of ~~[8.]~~ 4 cents per \$100 of the assessed valuation of the property in those counties to pay the costs of operating such a regional facility for the detention of children.

Existing law establishes a general limitation on the maximum amount by which the revenue that a local government may receive from property taxes may increase each year. (NRS 354.59811) *This bill exempts the additional levy of property tax authorized by this bill from that limitation.*

Existing law ~~also~~ generally limits the amount by which the tax liability of property may increase each year. (NRS 361.4722, 361.4723, 361.4724) This bill exempts the additional levy of property tax authorized by this bill from ~~each of these limitations;~~ that limitation for the first fiscal year in which the tax is imposed.

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

Section 1. NRS 354.59818 is hereby amended to read as follows:

354.59818 1. In addition to the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811 ~~and any tax imposed pursuant to subsection 2,~~ the boards of county commissioners of at least two counties may levy a tax ad valorem on all taxable property in their respective counties at a rate not to exceed 5 cents per \$100 of the assessed valuation of each county to pay the costs of operating a regional facility.

2. ~~In addition to the allowed revenue from taxes ad valorem determined pursuant to NRS 354.59811 and any tax imposed pursuant to subsection 1, the boards of county commissioners of at least two counties whose populations are, a county whose population is less than 100,000 may levy, by a two-thirds vote of the board, adopt an ordinance levying a tax ad valorem on all taxable property in their respective counties, the county at a rate not to exceed 8 of 4 cents per \$100 of the assessed valuation of each, the county to pay the costs of operating a regional facility for the detention of children for which an assessment is paid pursuant to NRS 62B.160. If a tax is levied pursuant to this subsection, the tax bill of each affected taxpayer must separately state:~~

- (a) That the tax is a county-imposed tax for regional juvenile services;
- (b) The rate of the tax; and
- (c) The amount of the tax liability resulting from the levy of the tax.

3. An ordinance adopted pursuant to subsection 2:

(a) Must not be applied or administered in any manner that reduces the revenue of any other governmental entity that is entitled to receive money from taxes ad valorem levied in the county; and

(b) Must be reviewed by the board of county commissioners at least once every 10 years.

4. Counties that levy a tax ad valorem pursuant to subsection 1 or 2 may enter into an interlocal agreement or interlocal contract to create an administrative entity to operate a regional facility.

~~[3.]~~ ~~[4.]~~ 5. The revenue of a tax collected pursuant to this section must be remitted on the first day of the first month of each calendar quarter to:

(a) If the regional facility is operated by a county, the treasurer of the county; or

(b) If the regional facility is operated by an administrative entity, the administrative entity.

~~[4.]~~ ~~[5.]~~ 6. By the end of each fiscal year, the board of county commissioners of each county that levies a tax pursuant to ~~this section~~

subsection 1 must determine the rate of tax required to produce revenue in an amount which is sufficient to pay the operating costs of the regional facility for the ensuing fiscal year. When calculating a rate pursuant to this ~~[section]~~ subsection, the board of county commissioners of each county shall consider the amount of money remaining in the fund created pursuant to NRS 354.59819, if such a fund is created, unless the amount of money remaining in the fund is 10 percent or less of the revenue deposited for the current fiscal year.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 361.4726 is hereby amended to read as follows:

361.4726 1. Except as otherwise provided by specific statute, if any legislative act which becomes effective after April 6, 2005, imposes a duty on a taxing entity to levy a new ad valorem tax or to increase the rate of an existing ad valorem tax, the amount of the new tax or increase in the rate of the existing tax is exempt from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724.

2. *The amount of any ad valorem tax imposed pursuant to subsection 2 of NRS 354.59818 is exempt from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724 ~~for~~ for the first fiscal year in which the tax is imposed, but is thereafter subject to each of those partial abatements from taxation.*

3. For the purposes of this section, "taxing entity" does not include the State.

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

Senator McGinness moved that the Senate concur in the Assembly amendment to Senate Bill No. 146.

Remarks by Senators McGinness and Titus.

Senator Titus requested that the following remarks be entered in the Journal.

SENATOR TITUS:

Mr. President, I would like for this to be clear and to have this placed on the record. This is a bill to allow two rural counties to increase the property tax outside the cap we put on last session in order to pay for a juvenile-detention center. This allows them to raise the property tax outside the cap we put on last session. Is that correct?

SENATOR MCGINNESS:

Thank you, Mr. President. That is correct. They will be outside the abatement the first year. The subsequent years would follow to the 3-and 8-percent cap just like everything else.

Motion carried on a division of the house by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 157.

The following Assembly amendment was read:

Amendment No. 889.

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

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

Legislative Counsel's Digest:

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

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

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

Existing law allows a public guardian to retain an attorney to assist him when necessary for the proper administration of a guardianship but requires that such employment be rotated among the attorneys practicing in the county who are qualified and willing to accept such employment. (NRS 253.215) In addition to such rotation of employment, section 12 of this bill allows the public guardian to retain one attorney to assist him or to obtain the assistance of the district attorney's office if the board of county commissioners approves such assistance.

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

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

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

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

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

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

subsection, the board shall pay any advance approved pursuant to subsection 1 from the general fund of the county.

3. The public guardian must reimburse the county for any advance provided pursuant to subsection 1 from the assets of the estate of the ward as soon as, and to the extent that, the assets become available. If the board of county commissioners has established a revolving fund pursuant to subsection 2, the board shall deposit in the revolving fund the money obtained from a reimbursement provided pursuant to this subsection. If the board has not established a revolving fund pursuant to subsection 2, the board shall deposit in the general fund of the county the money obtained from a reimbursement provided pursuant to this subsection.

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

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

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

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

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

253.0415 1. The public administrator shall:

(a) Investigate:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Investigate ~~{~~

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

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

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

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

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

~~[5.]~~ 4. Act, upon order of a court, as ~~[-]~~

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

~~(b) Administrator]~~ *administrator* of the estate of a person dying intestate, ~~[-]~~ regardless of the amount of assets in the estate of the ward or decedent if no other qualified person is willing and able to serve.

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

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

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

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

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

253.091 1. The board of county commissioners shall:

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

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

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

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

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

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

2. The board of county commissioners ~~[may:]~~ *shall*:

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

(b) Designate an elected or appointed county officer as ex officio public guardian ~~[-]~~ ;

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

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

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

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

(a) *A governmental agency.*

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

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

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

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

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

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

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

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

Sec. 11. NRS 253.200 is hereby amended to read as follows:

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

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

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

(b) ~~Lacks sufficient assets to provide the requisite compensation to a private guardian.~~ *Is a resident of that county.*

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

4. Before a petition for the appointment of the public guardian as a guardian may be filed pursuant to subsection 3, a copy of the petition and copies of all accompanying documents to be filed must be delivered to the public guardian or a deputy public guardian.

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

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

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

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

8. For the purposes of this section:

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

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

Sec. 12. NRS 253.215 is hereby amended to read as follows:

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

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

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

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

Sec. 13. NRS 253.220 is hereby amended to read as follows:

253.220 A public guardian ~~[shall]~~ *may* investigate the financial status , *assets and personal and family history* of any person for whom ~~[the appointment of]~~ the public guardian ~~[as his guardian is requested.]~~ *has been appointed as guardian, without hiring or being licensed as a private investigator pursuant to chapter 648 of NRS.* In connection with the investigation, the public guardian may require ~~[that person]~~ *any proposed ward or any spouse, parent, child or other kindred of the proposed ward to give any information and to execute and deliver any written requests or authorizations necessary to provide the public guardian with access to records, otherwise confidential, [needed to evaluate eligibility.] which are needed by the public guardian.* The public guardian may obtain information from any public record office of the State or any of its agencies or subdivisions upon request and without payment of any fees.

Sec. 14. NRS 253.240 is hereby amended to read as follows:

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

Sec. 15. NRS 648.060 is hereby amended to read as follows:

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

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

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

↪ unless he is licensed pursuant to this chapter.

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

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

(a) Is at least 18 years of age.

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

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

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

Sec. 16. NRS 648.063 is hereby amended to read as follows:

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

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

Sec. 17. NRS 648.203 is hereby amended to read as follows:

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

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

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

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

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

Senator Hardy moved that the Senate concur in the Assembly amendment to Senate Bill No. 157.

Remarks by Senator Hardy.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 200.

The following Assembly amendment was read:

Amendment No. 780.

"SUMMARY—~~[Extends the duration of certain redevelopment plans.]~~
Makes various changes relating to redevelopment. (BDR 22-358)"

"AN ACT relating to redevelopment; extending the duration of certain redevelopment plans; *requiring the North Las Vegas Redevelopment Agency to review and report on certain of its redevelopment activities*; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that a redevelopment plan adopted by a redevelopment agency before July 1, 1987, terminates at the end of the fiscal year in which the principal and interest of the last maturing securities issued before that date concerning the redevelopment area are fully paid, or 45 years after the date on which the original redevelopment plan was adopted, whichever is later. (NRS 279.438) A redevelopment plan adopted on or after July 1, 1987, terminates not later than 30 years after the date on which the original redevelopment plan was adopted. (NRS 279.439)

This bill makes applicable to any redevelopment plans adopted on or after July 1, 1987, but before January 1, 1991, the more lengthy durational limits currently applicable to redevelopment plans adopted before July 1, 1987.

This bill also requires the North Las Vegas Redevelopment Agency to conduct a review of certain matters relating to redevelopment and to prepare a report summarizing that review for transmittal to the 76th Session of the Nevada Legislature.

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

Section 1. NRS 279.438 is hereby amended to read as follows:

279.438 A redevelopment plan adopted before ~~[July 1, 1987,]~~ January 1, 1991, and any amendments to the plan must terminate at the end of the fiscal year in which the principal and interest of the last maturing of the securities issued before that date *concerning the redevelopment area* are fully paid or 45 years after the date on which the original redevelopment plan was adopted, whichever is later.

Sec. 2. NRS 279.439 is hereby amended to read as follows:

279.439 A redevelopment plan adopted on or after ~~[July 1, 1987,]~~ January 1, 1991, and any amendments to the plan must terminate not later than 30 years after the date on which the original redevelopment plan is adopted.

Sec. 2.5. The North Las Vegas Redevelopment Agency shall:

1. Conduct a review of its activities relating to redevelopment, including, without limitation, an analysis of:

(a) The progress made by the Agency in carrying out the Downtown Redevelopment Plan, the North Redevelopment Plan and any other redevelopment plans adopted by the North Las Vegas City Council;

(b) The benefits realized by extending the permissible duration of certain redevelopment plans pursuant to the amendatory provisions of this act; and

(c) Ways in which the Agency may ensure that redevelopment takes place in a carefully planned manner without undue delay.

2. Prepare a report summarizing the review conducted pursuant to subsection 1 and submit the report by July 1, 2010, to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission and to the 76th Session of the Nevada Legislature. The report must be made available to the general public.

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

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

Senator Hardy moved that the Senate concur in the Assembly amendment to Senate Bill No. 200.

Remarks by Senator Hardy.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 202.

The following Assembly amendment was read:

Amendment No. 890.

"SUMMARY—Makes various changes relating to domestic relations. (BDR 11-215)"

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

Legislative Counsel's Digest:

Under existing case law in Nevada, a court determining whether alimony should be awarded and the appropriate amount of alimony is required to consider several relevant factors including: (1) the financial condition of the parties; (2) the nature and value of their respective property; (3) the contribution of each party to any property held by both parties as tenants by the entirety; (4) the duration of the marriage; and (5) the income, earning capacity, age and health of each party. (*Buchanan v. Buchanan*, 90 Nev. 209, 215 (1974)) Section 1 of this bill codifies those factors as well as factors from subsequent case law so that a court must consider those factors when determining alimony. (*Buchanan*, 90 Nev. at 215; *Sprenger v. Sprenger*, 110 Nev. 855, 859 (1994); *Rodriguez v. Rodriguez*, 116 Nev. 993, 999 (2000))

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

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

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

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

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

1. In granting a divorce, the court:

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

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

2. Except as otherwise provided in this subsection, in granting a divorce, the court shall dispose of any property held in joint tenancy in the manner set forth in subsection 1 for the disposition of community property. If a party has made a contribution of separate property to the acquisition or improvement of property held in joint tenancy, the court may provide for the reimbursement of that party for his contribution. The amount of reimbursement must not exceed the amount of the contribution of separate property that can be traced to the acquisition or improvement of property held in joint tenancy, without interest or any adjustment because of an increase in the value of the property held in joint tenancy. The amount of reimbursement must not exceed the value, at the time of the disposition, of the property held in joint tenancy for which the contribution of separate property was made. In determining whether to provide for the reimbursement, in whole or in part, of a party who has contributed separate property, the court shall consider:

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

(b) The length of the marriage; and

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

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

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

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

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

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

7. If a decree of divorce, or an agreement between the parties which was ratified, adopted or approved in a decree of divorce, provides for specified periodic payments of alimony, the decree or agreement is not subject to modification by the court as to accrued payments. Payments pursuant to a decree entered on or after July 1, 1975, which have not accrued at the time a motion for modification is filed may be modified upon a showing of changed circumstances, whether or not the court has expressly retained jurisdiction for the modification. In addition to any other factors the court considers relevant in determining whether to modify the order, the court shall consider whether the income of the spouse who is ordered to pay alimony, as indicated on the spouse's federal income tax return for the preceding calendar year, has been reduced to such a level that the spouse is financially unable to pay the amount of alimony he has been ordered to pay.

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

- (a) The financial condition of each spouse;*
- (b) The nature and value of the respective property of each spouse;*
- (c) The contribution of each spouse to any property held by the spouses pursuant to NRS 123.030;*
- (d) The duration of the marriage;*
- (e) The income, earning capacity, age and health of each spouse;*
- (f) The standard of living during the marriage;*
- (g) The career before the marriage of the spouse who would receive the alimony;*
- (h) The existence of specialized education or training or the level of marketable skills attained by each spouse during the marriage;*
- (i) The contribution of either spouse as homemaker;*
- (j) The award of property granted by the court in the divorce, other than child support and alimony, to the spouse who would receive the alimony; and*

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

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

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

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

~~{9-}~~ 10. If the court determines that alimony should be awarded pursuant to the provisions of subsection ~~{8-}~~ 9:

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

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

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

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

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

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

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

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

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

(I) The equivalent of a high school diploma;

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

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

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

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

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

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

designated by his supervisor, regardless of whether the peace officer makes an arrest.

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

- (a) The name of the person who was the primary physical aggressor; and
- (b) A description of the evidence which supports his finding.

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

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

(a) Aggregated each month; and

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

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

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

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

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

(b) The relationship of the persons involved;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Senator Amodei moved that the Senate concur in the Assembly amendment to Senate Bill No. 202.

Remarks by Senator Amodei.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 203.

The following Assembly amendment was read:

Amendment No. 842.

"SUMMARY—Revises provisions concerning local financial administration. (BDR 20-711)"

"AN ACT relating to local financial administration; revising provisions concerning the proceeds of the fee authorized to be imposed in certain counties to pay for certain baseball stadium projects in certain circumstances; extending the dates for the reversion of certain money previously transferred and appropriated to the Interim Finance Committee to be allocated for Truckee River improvement related projects; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) may impose a fee upon the rental of passenger vehicles and issue revenue bonds of the county to acquire, improve, equip, operate and maintain a minor league baseball stadium project to be used for the home games of a Double-A or Triple-A affiliate of a Major League Baseball team. (NRS 244A.0344, 244A.058, 244A.800, 244A.830) Section 9.5 of this bill requires such a board of county commissioners to determine whether certain criteria for the minor league baseball stadium project have been met by October 1, 2007, and make a finding if all the criteria have been met. If the criteria have not been met by October 1, 2007, sections 1-6 of this bill allow the proceeds of the applicable fees on the rental of passenger vehicles and related revenue bonds to be used to acquire, lease, improve, equip, operate and maintain any project that has been approved by the Legislature, if the Legislature is in session, or by the Interim Finance Committee, if the Legislature is not in session. Such a project may include the acquisition, lease, improvement, equipment, operation and maintenance of a baseball stadium that can be used for the home games of any professional baseball team, and for certain other purposes, regardless of whether the professional baseball team is affiliated with a Major League Baseball team.

For the 2005-2007 biennium, \$650,000 was transferred from the Fund for the Promotion of Tourism to the Interim Finance Committee for allocation to the Reno-Sparks Convention and Visitors Authority to carry out a maximum of four projects relating to the improvement of the Truckee River. (Section 5 of chapter 454, Statutes of Nevada 2005, p. 2088) For the same biennium, \$600,000 was appropriated from the State General Fund to the Interim Finance Committee for allocation to the Reno-Sparks Convention and Visitors Authority for the same purpose. (Section 32 of chapter 7, Statutes of

Nevada 2005, 22nd Special Session, p. 120) Sections 7 and 8 of this bill extend the dates by which the remaining balance of this money reverts to the applicable Funds by 2 years.

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

Section 1. Chapter 244A of NRS is hereby amended by adding thereto a new section to read as follows:

1. *A board that has adopted an ordinance imposing a fee pursuant to NRS 244A.810 may, on behalf of the county and in its name:*

(a) *Acquire, lease, improve, equip, operate and maintain within the county a project that has been approved by the Legislature, if the Legislature is in session, or the Interim Finance Committee, if the Legislature is not in session.*

(b) *Subject to the provisions of chapter 350 of NRS, issue revenue bonds of the county to acquire, lease, improve or equip, or any combination thereof, the project described in paragraph (a).*

2. *Bonds issued pursuant to this section must be payable from the proceeds of the fee imposed by the county pursuant to NRS 244A.810 and may be additionally secured by and payable from the gross or net revenues of the project as provided by the board in the ordinance authorizing the issuance of bonds or any instrument supplemental or appertaining thereto.*

Sec. 1.5. NRS 244A.011 is hereby amended to read as follows:

244A.011 NRS 244A.011 to 244A.065, inclusive, *and section 1 of this act shall be known as the County Bond Law.*

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 244A.0344 is hereby amended to read as follows:

244A.0344 ~~["Minor league"]~~ *"Professional baseball stadium project" means a baseball stadium which can be used for the home games of [an AA or AAA minor league] a professional baseball team and for other purposes, including structures, buildings and other improvements and equipment therefor, parking facilities, and all other appurtenances necessary, useful or desirable for a [minor league] professional baseball stadium, including, without limitation, all types of property therefor.*

Sec. 2.7. NRS 244A.058 is hereby amended to read as follows:

244A.058 1. A board that has adopted an ordinance imposing a fee pursuant to NRS 244A.810 may, on behalf of the county and in its name:

(a) Acquire, lease, improve, equip, operate and maintain within the county a minor league baseball stadium project.

(b) Subject to the provisions of chapter 350 of NRS, issue revenue bonds of the county to acquire, lease, improve or equip, or any combination thereof, within the county a minor league baseball stadium project.

2. Bonds issued pursuant to this section must be payable from the proceeds of the fee imposed by the county pursuant to NRS 244A.810 and may be additionally secured by and payable from the gross or net revenues of the minor league baseball stadium project, including, without limitation,

amounts received from any minor league baseball team pursuant to a contract with that team, fees, rates and charges for the use of the stadium by a minor league baseball team or any other uses of the stadium, and related uses, including, without limitation, parking and concessions, surcharges on tickets in an amount approved by the board, grants, whether conditional or unconditional, made for the payment of debt service or otherwise for the purposes of the minor league baseball stadium project, and any and all other sources of revenue attributable to the minor league baseball stadium project as provided by the board in the ordinance authorizing the issuance of bonds or any instrument supplemental or appertaining thereto.

3. The provisions of chapters 332, 338 and 339 of NRS do not apply to a contract entered into by a county and a private developer pursuant to which the private developer constructs a minor league baseball stadium project, except that the contract must include a provision stating that the requirements of NRS 338.010 to 338.090, inclusive, apply to any construction work to be performed under the contract.

Sec. 3. NRS 244A.058 is hereby amended to read as follows:

244A.058 1. A board ~~[that has adopted an ordinance imposing a fee pursuant to NRS 244A.810]~~ in a county whose population is 100,000 or more but less than 400,000 may, on behalf of the county and in its name:

(a) Acquire, ~~lease~~, improve, equip, operate and maintain within the county a ~~[minor league]~~ professional baseball stadium project.

(b) Subject to the provisions of chapter 350 of NRS, issue revenue bonds of the county to acquire, ~~lease~~, improve or equip, or any combination thereof, within the county a ~~[minor league]~~ professional baseball stadium project.

2. Bonds issued pursuant to this section must be ~~[payable from the proceeds of the fee imposed by the county pursuant to NRS 244A.810 and may be additionally]~~ secured by and payable from the gross or net revenues of the ~~[minor league]~~ professional baseball stadium project, including, without limitation, amounts received from any ~~[minor league]~~ professional baseball team pursuant to a contract with that team, fees, rates and charges for the use of the stadium by a ~~[minor league]~~ professional baseball team or any other uses of the stadium, and related uses, including, without limitation, parking and concessions, surcharges on tickets in an amount approved by the board, grants, whether conditional or unconditional, made for the payment of debt service or otherwise for the purposes of the ~~[minor league]~~ professional baseball stadium project, and any and all other sources of revenue attributable to the ~~[minor league]~~ professional baseball stadium project as provided by the board in the ordinance authorizing the issuance of bonds or any instrument supplemental or appertaining thereto.

3. The provisions of chapters 332, 338 and 339 of NRS do not apply to a contract entered into by a county and a private developer pursuant to which the private developer constructs a professional baseball stadium project, except that the contract must include a provision stating that the

requirements of NRS 338.010 to 338.090, inclusive, apply to any construction work to be performed under the contract.

Sec. 4. NRS 244A.800 is hereby amended to read as follows:

244A.800 As used in NRS 244A.800 to 244A.830, inclusive:

1. "Department" means the Department of Taxation.
2. ~~["Minor league"]~~ "Professional baseball stadium project" has the meaning ascribed to it in NRS 244A.0344.

Sec. 4.5. NRS 244A.810 is hereby amended to read as follows:

244A.810 1. Except as otherwise provided in subsection 2, the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 may by ordinance impose a fee upon the lease of a passenger car by a short-term lessor in the county in the amount of not more than 2 percent of the total amount for which the passenger car was leased, excluding any taxes or other fees imposed by a governmental entity.

2. The fee imposed pursuant to subsection 1 must not apply to replacement vehicles. As used in this subsection, "replacement vehicle" means a vehicle that is:

(a) Rented temporarily by or on behalf of a person or leased to a person by a facility that repairs motor vehicles or a motor vehicle dealer; and

(b) Used by the person in place of a motor vehicle owned by the person that is unavailable for use because of mechanical breakdown, repair, service, damage or loss as defined in the owner's policy of liability insurance for the motor vehicle.

3. Any proceeds of a fee imposed pursuant to this section which are received by a county must be used solely to pay the costs to acquire, lease, improve, equip, operate and maintain within the county a minor league baseball stadium project, or to pay the principal of, interest on or other payments due with respect to bonds issued to pay such costs, including bonds issued to refund bonds issued to pay such costs, or any combination thereof.

4. The board of county commissioners shall not repeal or amend or otherwise directly or indirectly modify an ordinance imposing a fee pursuant to subsection 1 in such a manner as to impair any outstanding bonds issued by or other obligations incurred by the county until all obligations for which revenue from the ordinance have been pledged or otherwise made payable from such revenue have been discharged in full or provision for full payment and redemption has been made.

5. As used in this section, the words and terms defined in NRS 482.053 and 482.087 have the meanings ascribed to them in those sections.

Sec. 5. NRS 244A.810 is hereby amended to read as follows:

244A.810 1. Except as otherwise provided in subsection 2, the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 may by ordinance impose a fee upon the lease of a passenger car by a short-term lessor in the county in the amount of not more than 2 percent of the total amount for which the passenger car was leased, excluding any taxes or other fees imposed by a governmental entity.

2. The fee imposed pursuant to subsection 1 must not apply to replacement vehicles. As used in this subsection, "replacement vehicle" means a vehicle that is:

- (a) Rented temporarily by or on behalf of a person or leased to a person by a facility that repairs motor vehicles or a motor vehicle dealer; and
- (b) Used by the person in place of a motor vehicle owned by the person that is unavailable for use because of mechanical breakdown, repair, service, damage or loss as defined in the owner's policy of liability insurance for the motor vehicle.

3. Any proceeds of a fee imposed pursuant to this section which are received by a county must be used solely to pay the costs to acquire, lease, improve, equip, operate and maintain within the county a ~~{minor league baseball stadium}~~ project ~~{,}~~ *that has been approved by the Legislature, if the Legislature is in session, or the Interim Finance Committee, if the Legislature is not in session*, or to pay the principal of, interest on or other payments due with respect to bonds issued to pay such costs, including bonds issued to refund bonds issued to pay such costs, or any combination thereof.

4. The board of county commissioners shall not repeal or amend or otherwise directly or indirectly modify an ordinance imposing a fee pursuant to subsection 1 in such a manner as to impair any outstanding bonds issued by or other obligations incurred by the county until all obligations for which revenue from the ordinance have been pledged or otherwise made payable from such revenue have been discharged in full or provision for full payment and redemption has been made.

5. As used in this section, the words and terms defined in NRS 482.053 and 482.087 have the meanings ascribed to them in those sections.

Sec. 6. NRS 244A.830 is hereby amended to read as follows:

244A.830 1. A board of county commissioners that ~~{adopts an ordinance imposing a fee pursuant to NRS 244A.810}~~ *acquires, leases, improves, equips, operates and maintains within the county a professional baseball stadium project* ~~{shall}~~ *may* create a stadium authority to operate the ~~{minor league}~~ professional baseball stadium project.

2. If a stadium authority is created:

(a) The stadium authority must consist of:

~~{(a)}~~ (1) One member of the board of county commissioners appointed by the board;

~~{(b)}~~ (2) One member from the governing body of each city in the county whose population is 60,000 or more, appointed by that governing body; and

~~{(c)}~~ (3) If the stadium authority enters into an agreement with ~~{an AA or AAA minor league}~~ a professional baseball team pursuant to which the team agrees to play its home games in the stadium, two persons appointed by the owner of the team.

~~{2-}~~ (b) The members of the stadium authority serve at the pleasure of the governmental entity or person who appointed them to serve in that capacity.

~~{3-}~~ (c) The stadium authority shall:

~~[(a)]~~ (1) Be responsible for the normal operations of the ~~[minor league]~~ professional baseball stadium project ~~and~~

~~[(b)]~~ or such operations as may be specified in the agreement entered into pursuant to subparagraph (2); and

(2) Enter into an agreement with the board of county commissioners that sets forth the specific rights, obligations and duties of the stadium authority regarding those operations.

Sec. 7. Section 5 of chapter 454, Statutes of Nevada 2005, at page 2088, is hereby amended to read as follows:

Sec. 5. 1. The Commission on Tourism shall, as soon as practicable after July 1, 2005, and July 1, 2006, respectively, without depleting the funds necessary for day-to-day operations, transfer the following amounts from the proceeds from the taxes imposed on the revenue from the rental of transient lodging which have been credited to the Fund for the Promotion of Tourism, created by NRS 231.250, to the Interim Finance Committee:

For the Fiscal Year 2005-2006.....\$600,000

For the Fiscal Year 2006-2007.....\$50,000

2. The money transferred pursuant to subsection 1 shall be allocated to the Reno-Sparks Convention and Visitors Authority to implement the Truckee River Recreational Master Plan as adopted by the City of Reno, the City of Sparks and Washoe County through a public review process. The money must be used to plan, obtain permits for, design and construct not more than four projects along the Truckee River that would enhance the recreational enjoyment, aquatic habitat and water quality of the Truckee River. The money must be expended on the following projects but is not limited to Rock Park, Pioneer Diversion Dam, Ambrose Park and Idlewild Park.

3. The Interim Finance Committee shall allocate the money transferred pursuant to subsection 1 upon notification that the City of Reno, the City of Sparks and Washoe County have committed to expend, in total, an equal amount of money on Truckee River improvement related projects. For the purpose of this section, Truckee River improvement related projects include any public project to improve the Truckee River for watershed protection, watershed restoration, recreation or flood control.

4. Upon acceptance of the money allocated pursuant to subsection 2, the Reno-Sparks Convention and Visitors Authority shall prepare and transmit a report to the Interim Finance Committee on or before December 15, ~~[2006,]~~ 2008, that describes each expenditure made from the money allocated pursuant to subsection 2 from the date on which the money was received by the Reno-Sparks Convention and Visitors Authority through December 1, ~~[2006,]~~ 2008.

5. The Reno-Sparks Convention and Visitors Authority shall not assess an administrative fee or fine upon any local governing bodies relating to compliance with the provisions of subsections 3 and 4.

6. A public review and approval process, as determined by the City of Reno, the City of Sparks and Washoe County, must be completed before the commencement of construction of any project that uses money allocated pursuant to this section. Project design, construction documents and funding processes related to any such project must be approved by each local governing body having jurisdiction over the project. Each such project must conform to the parameters of the Truckee River Flood Control Project and the Truckee River Operating Agreement.

7. Any remaining balance of the sums transferred pursuant to subsection 1 must not be committed for expenditure after June 30, ~~[2007,]~~ 2009, and must be reverted to the Fund for the Promotion of Tourism on or before September ~~[21, 2007.]~~ 18, 2009.

Sec. 8. Section 32 of chapter 7, Statutes of Nevada 2005, 22nd Special Session, at page 120, is hereby amended to read as follows:

Sec. 32. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee the sum of \$600,000 for allocation to the Reno-Sparks Convention and Visitors Authority to implement the Truckee River Recreational Master Plan as adopted by the City of Reno, the City of Sparks and Washoe County through a public review process. The money must be used to plan, obtain permits for, design and construct not more than four projects along the Truckee River that would enhance the recreational enjoyment, aquatic habitat and water quality of the Truckee River. The money must be expended on the following projects but is not limited to Rock Park, Pioneer Diversion Dam, Ambrose Park and Idlewild Park.

2. The Interim Finance Committee shall allocate the money appropriated pursuant to subsection 1 upon notification that the City of Reno, the City of Sparks and Washoe County have committed to expend, in total, an equal amount of money on Truckee River improvement related projects. For the purpose of this section, Truckee River improvement related projects include any public project to improve the Truckee River for watershed protection, watershed restoration, recreation or flood control.

3. Upon acceptance of the money allocated pursuant to subsection 2, the Reno-Sparks Convention and Visitors Authority shall prepare and transmit a report to the Interim Finance Committee on or before December 15, ~~[2006,]~~ 2008, that describes each expenditure made from the money allocated pursuant to subsection 2 from the date on which the money was received by the Reno-Sparks Convention and Visitors Authority through December 1, ~~[2006.]~~ 2008.

4. The Reno-Sparks Convention and Visitors Authority shall not assess an administrative fee or fine upon any local governing bodies relating to compliance with the provisions of subsections 2 and 3.

5. A public review and approval process, as determined by the City of Reno, the City of Sparks and Washoe County, must be completed before the commencement of construction of any project that uses money allocated pursuant to this section. Project design, construction documents and funding processes related to any such project must be approved by each local governing body having jurisdiction over the project. Each such project must conform to the parameters of the Truckee River Flood Control Project and the Truckee River Operating Agreement.

6. Any remaining balance of the sums appropriated pursuant to subsection 1 must not be committed for expenditure after June 30, ~~[2007,]~~ 2009, and must be reverted to the State General Fund on or before September ~~[21, 2007,]~~ 18, 2009.

Sec. 9. (Deleted by amendment.)

Sec. 9.5. 1. The board of county commissioners of a county whose population is 100,000 or more but less than 400,000 shall determine whether the following criteria for the minor league baseball stadium project, as defined in NRS 244A.0344, have been met before October 1, 2007:

(a) An agreement has been entered into with a minor league baseball team to play its home games at a baseball stadium that will be acquired, leased, improved, equipped, operated and maintained within the county;

(b) If relocation of the minor league baseball team is required, approval for relocation of the team by the relevant league has been obtained;

(c) The site for the minor league baseball stadium has been acquired ~~[,]~~ or leased; and

(d) Any approval required for the construction or improvement of the minor league baseball stadium has been obtained.

2. If the board determines pursuant to subsection 1 that all the criteria set forth in that subsection have been met, the board shall, as soon as practicable, make a finding indicating that all the criteria for the minor league baseball stadium project have been met. Such a finding is conclusive absent fraud or abuse of discretion.

Sec. 10. 1. This section and sections 7, 8 and 9.5 of this act become effective upon passage and approval.

2. Sections 2.7 and 4.5 of this act become effective upon passage and approval and expire by limitation on October 1, 2007, if the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 has not made a finding pursuant to section 9.5 of this act.

3. Sections 1 ~~[to 6, inclusive,]~~ 1.5, 2.5, 3, 4, 5 and 6 of this act become effective on October 1, 2007, if the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 has not made a finding pursuant to section 9.5 of this act.

Senator Hardy moved that the Senate concur in the Assembly amendment to Senate Bill No. 203.

Remarks by Senator Hardy.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 228.

The following Assembly amendment was read:

Amendment No. 907.

"SUMMARY—Enacts provisions related to certain medical review committees. (BDR 40-986)"

"AN ACT relating to emergency medical services; enacting provisions related to the access, sharing and confidentiality of certain information by various medical review committees; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law grants certain privileges to various medical review committees in regard to the nondisclosure of information. (NRS 49.117-49.123) This bill enacts provisions regarding the access, sharing and confidentiality of certain information by various medical review committees.

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. *A medical review committee is entitled to access to ~~the~~
~~(a) Any~~ any autopsy records relating to a death under ~~review~~, and
~~(b) Any medical records of a patient or decedent under~~ review.*
2. *Each organization represented on a medical review committee to review the medical care or death of a person shall share with other members of the committee information in its possession concerning the person who is the subject of the review and any other information deemed by the organization to be pertinent to the review.*
3. *~~Information acquired by, and records of, a medical review committee to review the medical care or death of a person are confidential, must not be disclosed, and are not subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding.~~ Any autopsy records provided to a medical review committee pursuant to this section are privileged records for the purposes of NRS 49.119 and 49.121.*
4. *As used in this section, "medical review committee" means a medical review committee of a county or district board of health that certifies, licenses or regulates providers of emergency medical services pursuant to the provisions of this chapter, but only when functioning as a peer review committee.*

Senator Washington moved that Senate Bill No. 228 be taken from Unfinished Business and placed on Unfinished Business on the next agenda.

Motion carried.

Senate Bill No. 289.

The following Assembly amendment was read:

Amendment No. 847.

"SUMMARY—Revises provisions relating to fire protection districts. (BDR 42-471)"

"AN ACT relating to fire protection; revising provisions that authorize a fire protection district receiving federal aid to annex territory which is contiguous to the district; ~~revising provisions that authorize certain county~~ authorizing a fire protection ~~districts to annex territory located in~~ district receiving federal aid to reorganize as a county fire protection district ; ~~receiving federal aid;~~ authorizing the ~~consolidation~~ adjustment of the boundaries of certain contiguous fire protection districts located in a county; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the creation of fire protection districts. (Chapters 473 and 474 of NRS) A fire protection district established pursuant to chapter 473 of NRS may annex territory which is contiguous to the district only upon a petition signed by a majority of the property owners within the territory and approval by the State Forester Firewarden. (NRS 473.035)

Section 1 of this bill provides an additional procedure for the annexation of new territory in a fire protection district established pursuant to chapter 473 of NRS. Section 1 authorizes the board of county commissioners of the county in which the district is organized to propose the annexation of new territory by the adoption of a resolution and approval by the State Forester Firewarden.

Section 3 of this bill authorizes a fire protection district ~~established pursuant to chapter 474 of NRS to annex all or part of a fire protection district organized under the provisions of~~ organized as provided in chapter 473 of NRS ~~to reorganize as an existing or new fire protection district that is subject to the provisions of: (1) NRS 474.010 to 474.450, inclusive; or (2) NRS 474.460 to 474.540, inclusive.~~ The proposed ~~annexation~~ reorganization may be initiated by a petition of ~~the~~ a majority of the owners within the ~~area~~ district proposed for ~~annexation~~ reorganization or by a resolution of the board of county commissioners of the county in which the district ~~proposing the annexation~~ proposed for reorganization is located. The State Forester Firewarden must approve the ~~annexation~~ reorganization.

Section 4 of this bill authorizes the ~~consolidation of all or any part of the area of~~ adjustment of boundaries as between certain contiguous fire protection districts located in the same county. The proposed ~~consolidation may be initiated~~ adjustment of boundaries must be approved by : (1) a

~~petition of a~~ majority of the *directly affected* owners of ~~the~~ property ~~located within the districts proposed for consolidation or by a~~ ; *and (2)* resolution of the board of county commissioners of the county in which the districts *whose boundaries are proposed* ~~for consolidation~~ *to be adjusted* are located.

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

Section 1. NRS 473.035 is hereby amended to read as follows:

473.035 1. New territory may be included in any fire protection district organized under this chapter in the manner provided in subsections 2 to ~~{5,~~ inclusive.

~~2. Upon receiving a written petition containing a~~ 7, inclusive. Any new territory which is proposed to be included in a fire protection district must be contiguous to the district.

2. The inclusion of new territory in a fire protection district organized under this chapter may be initiated by:

(a) A petition signed by a majority of the owners of the property located within the territory proposed to be included in the district; or

(b) A resolution of the board of county commissioners of the county in which the district is located that includes a description of the territory proposed to be included in the district.

3. The petition must include:

(a) A description of the territory proposed to be included ~~{(which territory must be contiguous to the district), which petition must contain a}~~ in the fire protection district; and

(b) A statement advising the signers that their property will be subject to the levy of a tax for the support of the fire protection district . ~~{, and be signed by not less than a majority of the property owners within the territory.}~~

4. Upon receipt of the petition or resolution, the State Forester Firewarden shall determine the feasibility of including that territory in the fire protection district and shall notify the board of directors of the district of his decision.

~~{3.}~~ 5. The board of directors, upon receipt of a notice in writing from the State Forester Firewarden of the decision to include territory in the fire protection district, shall prepare a resolution:

(a) Describing the territory to be included; and

(b) Stating the purpose for its inclusion.

~~{4.}~~ 6. Upon the adoption of the resolution , the board of directors shall forthwith notify the State Forester Firewarden of the resolution. The territory is included in the fire protection district from the date of the resolution.

~~{5.}~~ 7. Upon the inclusion of any contiguous territory in a fire protection district , the State Forester Firewarden shall adopt regulations for the organization of the territory to meet the terms and requirements for federal aid.

Sec. 2. Chapter 474 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.

Sec. 3. 1. ~~A [county] fire protection district organized [pursuant to this chapter may annex all or any part of a fire protection district organized pursuant to]~~ as provided in chapter 473 of NRS [.] may, in the manner provided in this section, be reorganized as an existing or new fire protection district subject to the provisions of:

(a) NRS 474.010 to 474.450, inclusive; or

(b) NRS 474.460 to 474.540, inclusive.

2. ~~The [annexation] reorganization of such a district may be initiated by:~~

(a) A petition signed by a majority of the owners of the property located within the [area] district proposed to be [annexed,] reorganized; or

(b) A resolution of the board of county commissioners of the county in which the district [organized pursuant to this chapter] proposed to be reorganized is located.

3. ~~If, after notice and a hearing, the board of county commissioners determines that the proposed [annexation is feasible and] reorganization is in the best interests of the county and the district, the board [of county commissioners shall adopt and submit to] shall notify the State Forester Firewarden [a petition requesting annexation of the proposed area.~~

~~4. Upon receipt of the petition, the] of that determination.~~

4. The State Forester Firewarden shall determine whether the [annexation] reorganization is feasible and shall notify the board of county commissioners, in writing, of his decision. If the State Forester Firewarden determines that the reorganization is feasible, he shall further notify the board of county commissioners, in writing, that the petition or resolution, as applicable, proposing the reorganization of the district is approved.

5. ~~Upon receipt of a notice in writing from the State Forester Firewarden that the [annexation] petition or resolution proposing the reorganization is approved, the board of county commissioners shall adopt an ordinance [which must include the name and boundaries of] reorganizing the district [.] as an existing or new fire protection district subject to the provisions of:~~

(a) NRS 474.010 to 474.450, inclusive; or

(b) NRS 474.460 to 474.540, inclusive.

6. The board of county commissioners shall cause a copy of the ordinance, certified by the clerk of the board of county commissioners, to be filed immediately for record in the office of the county recorder.

7. ~~[The annexation of the proposed area of the district is complete upon the filing of the ordinance pursuant to this section.] All debts, obligations, liabilities and assets of a fire protection district organized as provided in chapter 473 of NRS that is reorganized pursuant to this section must be assumed or taken over by the fire protection district into which that district is reorganized.~~

8. A district reorganized pursuant to this section as an existing or new fire protection district subject to the provisions of:

(a) NRS 474.010 to 474.450, inclusive, has all of the powers granted by those sections and shall be deemed to have been formed under the provisions of those sections.

(b) NRS 474.460 to 474.540, inclusive, has all of the powers granted by those sections and shall be deemed to have been organized in accordance with NRS 474.460.

Sec. 4. 1. ~~Two~~ The boundaries of two or more contiguous fire protection districts located within a county and organized pursuant to NRS 474.010 or 474.460 may be consolidated into a fire protection district consisting of ~~adjusted in the manner provided in this section so that all or any part of the area of those~~ one such fire protection district is excluded from that district and added to the area of another such fire protection district.

2. ~~The consolidation may~~ adjustment of the boundaries of fire protection districts pursuant to this section must be initiated ~~approved by:~~

(a) ~~A petition signed by a~~ majority of the owners of property located within the portions of those districts directly affected by the proposed ~~to be consolidated; or~~ adjustment of boundaries; and

(b) ~~A resolution~~ Resolution of the board of county commissioners of the county in which the districts are located ~~if the~~ , which resolution ~~is~~ must also be approved by the governing bodies of the fire protection districts whose boundaries are proposed to be ~~consolidated~~ adjusted.

↪ For the purposes of this subsection, an owner of property located within a fire protection district is "directly affected" by a proposed adjustment of boundaries if the adjustment will cause that property, or other property immediately adjacent to that property, to be excluded from the district in which it is currently located and added to a district other than that in which it is currently located.

3. If, after notice and a hearing, the board of county commissioners determines that the proposed ~~consolidation~~ adjustment of boundaries is feasible and in the best interests of the county and the districts whose boundaries are proposed to be ~~consolidated~~ adjusted, the board of county commissioners shall adopt an ordinance ~~consolidating~~ adjusting the boundaries of those districts. The ordinance must include the name and boundaries of ~~the consolidated district~~ each district that will result from the adjustment.

4. For the purposes of subsection 3, a board of county commissioners shall not determine that a proposed adjustment of boundaries is feasible and in the best interests of the county and the districts whose boundaries are proposed to be adjusted unless the board concludes, after conducting a reasonable investigation, that:

(a) The total assessed valuation of taxable property in the districts whose boundaries are proposed to be adjusted is substantially equivalent; and

(b) The total ad valorem tax levied within the districts whose boundaries are proposed to be adjusted is substantially equivalent.

5. ~~The board of county commissioners shall cause a copy of ~~the~~ any ordinance ~~that~~ adopted pursuant to subsection 3 to be certified by the clerk of the board ~~of county commissioners, to be~~ and filed immediately for record in the office of the county recorder.~~

~~[5. All]~~

6. If an adjustment of boundaries pursuant to this section causes:

(a) Part of the area of one fire protection district to be excluded from that district and added to the area of another fire protection district, the districts may, but are not required to, enter into such an agreement as they determine equitable to address the apportionment of debts, obligations, liabilities and assets.

(b) All of the area of one fire protection district to be excluded from that district and added to the area of another fire protection district, the debts, obligations, liabilities and assets of the ~~former districts~~ district from which the area is excluded must be assumed by the ~~consolidated~~ district ~~that~~ to which the area is added.

Sec. 5. ~~[NRS 474.325 is hereby amended to read as follows:~~

~~474.325 The boundaries of any county fire protection district formed under NRS 474.010 to 474.450, inclusive, may be altered and new territory annexed thereto, incorporated and included therein, and made a part thereof in the manner provided in :~~

~~1. NRS 474.335 to 474.395, inclusive [.] ; or~~

~~2. Section 3 of this act.] (Deleted by amendment.)~~

Sec. 6. The amendatory provisions of this act do not apply to modify, directly or indirectly, any taxes levied or revenues pledged in such a manner as to impair adversely any outstanding obligations of a fire protection district, including, without limitation, bonds, medium-term financing, letters of credit and any other financial obligation, until all such obligations have been discharged in full or provision for their payment and redemption has been fully made.

Sec. 7. This act becomes effective on July 1, 2007.

Senator Washington moved that the Senate concur in the Assembly amendment to Senate Bill No. 289.

Remarks by Senator Washington.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 298.

The following Assembly amendment was read:

Amendment No. 793.

"SUMMARY—Enacts provisions relating to civil liability for causing the injury or death of certain pets. (BDR 3-479)"

"AN ACT relating to civil liability; enacting provisions relating to civil liability for causing the injury or death of certain pets; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under general legal principles, a pet is considered the personal property of its owner. If a person negligently, recklessly, willfully or intentionally injures or kills the pet of another person, the owner of the pet may recover the same damages that the owner could recover for damage to or destruction of the owner's personal property. Section 1 of this bill replaces this general legal principle with a statutory provision which provides that a person who intentionally, willfully, recklessly or negligently injures or kills the dog or cat of another person is liable for certain economic damages and that the award of such damages must not exceed \$5,000. Under section 1, punitive damages and noneconomic damages may not be awarded.

Section 2 of this bill provides that the owner of the dog or cat must bring an action within 2 years after the cause of action accrues.

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

Section 1. Chapter 41 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 4, if a natural person intentionally, willfully, recklessly or negligently injures or kills the pet of another natural person, the person is liable for the following:*

(a) *The cost of veterinary care incurred by the owner because of the injury or death of the pet.*

(b) *If the pet is injured, any reduction in the market value of the pet caused by the injury.*

(c) *If the pet is killed, the market value of the pet and reasonable burial expenses.*

(d) *Reasonable attorney's fees and costs incurred by the owner in bringing an action pursuant to this section.*

2. *Punitive damages and noneconomic damages may not be awarded in an action brought under this section.*

3. *In an action brought under this section, the award of damages must not exceed \$5,000 for each pet.*

4. *The provisions of this section do not authorize an award of damages pursuant to subsection 1 if:*

(a) *A nonprofit organization, society for the prevention of cruelty to animals established pursuant to NRS 574.010 or governmental entity, or an employee or agent thereof, injures or kills a pet while acting in furtherance of public health or animal welfare.*

(b) *The action is based on the killing of a dog that had been or was killing or causing damage to livestock.*

(c) The person reasonably believed that:

(1) The pet presented a risk to his safety or to the safety of another person; and

(2) The action was necessary to protect himself or another person.

5. *As used in this section:*

(a) *"Livestock" has the meaning ascribed to it in NRS 569.0085.*

(b) *"Owner" means a natural person who owns, possesses, harbors, keeps or has control or custody of a pet.*

(c) *"Pet" means any domesticated dog or cat normally maintained in or near the household of its owner.*

Sec. 2. NRS 11.190 is hereby amended to read as follows:

11.190 Except as otherwise provided in NRS 125B.050 and 217.007, actions other than those for the recovery of real property, unless further limited by specific statute, may only be commenced as follows:

1. Within 6 years:

(a) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States, or the renewal thereof.

(b) An action upon a contract, obligation or liability founded upon an instrument in writing, except those mentioned in the preceding sections of this chapter.

2. Within 4 years:

(a) An action on an open account for goods, wares and merchandise sold and delivered.

(b) An action for any article charged on an account in a store.

(c) An action upon a contract, obligation or liability not founded upon an instrument in writing.

(d) An action against a person alleged to have committed a deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, but the cause of action shall be deemed to accrue when the aggrieved party discovers, or by the exercise of due diligence should have discovered, the facts constituting the deceptive trade practice.

3. Within 3 years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for waste or trespass of real property, but when the waste or trespass is committed by means of underground works upon any mining claim, the cause of action shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the waste or trespass.

(c) An action for taking, detaining or injuring personal property, including actions for specific recovery thereof, but in all cases where the subject of the action is a domestic animal usually included in the term "livestock," which has a recorded mark or brand upon it at the time of its loss, and which strays or is stolen from the true owner without his fault, the statute does not begin to run against an action for the recovery of the animal until the owner has actual knowledge of such facts as would put a reasonable person upon inquiry as to the possession thereof by the defendant.

(d) Except as otherwise provided in NRS 112.230 and 166.170, an action for relief on the ground of fraud or mistake, but the cause of action in such a case shall be deemed to accrue upon the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(e) An action pursuant to NRS 40.750 for damages sustained by a financial institution because of its reliance on certain fraudulent conduct of a borrower, but the cause of action in such a case shall be deemed to accrue upon the discovery by the financial institution of the facts constituting the concealment or false statement.

4. Within 2 years:

(a) An action against a sheriff, coroner or constable upon liability incurred by acting in his official capacity and in virtue of his office, or by the omission of an official duty, including the nonpayment of money collected upon an execution.

(b) An action upon a statute for a penalty or forfeiture, where the action is given to a person or the State, or both, except when the statute imposing it prescribes a different limitation.

(c) An action for libel, slander, assault, battery, false imprisonment or seduction.

(d) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process.

(e) Except as otherwise provided in NRS 11.215, an action to recover damages for injuries to a person or for the death of a person caused by the wrongful act or neglect of another. The provisions of this paragraph relating to an action to recover damages for injuries to a person apply only to causes of action which accrue after March 20, 1951.

(f) *An action to recover damages under section 1 of this act.*

5. Within 1 year:

(a) An action against an officer, or officer de facto to recover goods, wares, merchandise or other property seized by the officer in his official capacity, as tax collector, or to recover the price or value of goods, wares, merchandise or other personal property so seized, or for damages for the seizure, detention or sale of, or injury to, goods, wares, merchandise or other personal property seized, or for damages done to any person or property in making the seizure.

(b) An action against an officer, or officer de facto for money paid to the officer under protest, or seized by the officer in his official capacity, as a collector of taxes, and which, it is claimed, ought to be refunded.

Sec. 3. This act applies to a cause of action that accrues on or after October 1, 2007.

Senator Amodei moved that the Senate concur in the Assembly amendment to Senate Bill No. 298.

Remarks by Senator Amodei.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 307.

Amendment No. 748.

"SUMMARY—Revises certain provisions relating to state and local governmental purchasing. (BDR 27-782)"

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

Legislative Counsel's Digest:

Under existing law, persons who have bid on a contract proposed to be awarded by a local government or by the Purchasing Division of the Department of Administration are prohibited from soliciting or obtaining proprietary information regarding the contract from officers or employees of the governmental entity on whose behalf the contract is being offered. (NRS 332.810, 333.800) Sections 2 and 4 of this bill expand this prohibition to include the soliciting or obtaining of information regarding another person's bid on the contract, unless such information is available to the general public. Section 5 of this bill prohibits officers and employees of the State or a local government from offering or providing to a bidder on a purchasing contract with the State or local government certain information before the award of the contract. Section 5 also requires those officers and employees to refuse inducements offered by bidders and to report such inducements to their immediate supervisors.

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

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

Section 1. (Deleted by amendment.)

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

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

(a) Make an offer or promise of future employment or business opportunity to, or engage in a discussion of future employment or business

opportunity with, an evaluator or member of the governing body offering the contract;

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

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

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

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

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

Sec. 3. (Deleted by amendment.)

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

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

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

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

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

(1) *Any proprietary information regarding the contract; or*

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

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

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

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

(a) Refuse the offer or promise; and

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

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

(a) Any proprietary information regarding the contract; or

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

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

4. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The best interests of the public;

(b) The continued integrity of State Government; and

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

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

~~{5-}~~ 6. As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038.

Senator Hardy moved that the Senate concur in the Assembly amendment to Senate Bill No. 307.

Remarks by Senator Hardy.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 314.

The following Assembly amendment was read:

Amendment No. 860.

"SUMMARY—Requires the provision of information concerning services that are provided at certain residential facilities. (BDR 40-1169)"

"AN ACT relating to residential facilities; requiring that certain facilities ~~[for independent living]~~ *and entities* provide notice of the limitations on the services provided at the facility and certain other information; requiring the Aging Services Division of the Department of Health and Human Services to develop the required notice; requiring the Department to develop a brochure and website to assist older persons in determining the appropriate level of

care and type of facility they require to meet their needs; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the licensing and regulation of certain facilities and services for dependent persons. (Chapter 449 of NRS) Some facilities that serve as residences for independent living are not required to be licensed pursuant to chapter 449 of NRS. In some situations, such a facility may contain some units that are subject to licensure because of the services that they provide and other units that are not subject to licensure because they do not provide those services. Section 3 of this bill requires certain facilities which ~~are not licensed pursuant to chapter 449 of NRS and which~~ offer independent living to provide notice of the limitations on the services provided and certain other information. Section 4 of this bill requires the Department of Health and Human Services to develop a brochure and a website to assist older persons seeking residential care or services in determining the appropriate level of care and services available at different facilities.

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

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ~~["Residential facility for independent living" means a facility that does not provide care or services which require licensure pursuant to this chapter, including, without limitation, a facility that is affiliated with or shares property with another facility which is required to be licensed pursuant to this chapter.] (Deleted by amendment.)~~

Sec. 3. 1. ~~A residential facility for independent living~~ facility for the dependent, a medical facility, a home for individual residential care or an entity affiliated with such a facility or home which offers housing to persons that does not include the provision of care or services which require licensure pursuant to this chapter shall conspicuously post in the facility or home and shall include in any contracts of sale or agreements for occupancy a notice that includes the following information:

(a) That the specific area of the facility or home is intended for independent living and does not directly provide or coordinate the oversight of services to meet the scheduled and unscheduled needs of its residents, including, without limitation, the provision of personal care, supportive services and health-related services.

(b) The other levels of care that are available to persons who require personal care, supportive services or health-related services, including, without limitation, residential facilities for groups, facilities for intermediate care and facilities for skilled nursing. The notice must describe the facilities and levels of care in language that is easy to understand.

(c) A statement that encourages residents to reassess on a regular basis the type of housing and care that is most appropriate for them.

2. *The Aging Services Division of the Department of Health and Human Services shall develop the language for the notice required by subsection 1 in consultation with nationally recognized advocacy groups for older persons and housing organizations.*

3. *For the purposes of this section, an entity is affiliated with a facility or home described in subsection 1 if:*

(a) It is under common or shared ownership;

(b) It is under common or shared management; or

(c) It receives promotional or marketing support from the facility or home.

Sec. 4. 1. *The Department of Health and Human Services shall develop a brochure and website to assist persons who are 55 years of age or older in determining the appropriate level of care and type of housing that they require to meet their individual needs. The brochure and website must include, without limitation:*

~~1-1~~ *(a) The various types of housing and levels of care that are available to persons who are 55 years of age or older, including, without limitation, residential facilities for independent living, residential facilities for groups, facilities for intermediate care and facilities for skilled nursing, distinguishing the varying degree of services that are offered by the different types of facilities; and*

~~2-1~~ *(b) Whether individual facilities accept payment through Medicaid or Medicare for the level of care and type of housing that the facilities provide;*

(c) The manner in which a person may obtain information concerning whether the facility has ever been found to have violated the provisions of this chapter; and

(d) Such other information as the Department deems to be beneficial to persons who are 55 years of age or older in determining the appropriate level of care and type of housing that they require to meet their individual needs.

2. *As used in this section:*

(a) "Medicaid" has the meaning ascribed to it in NRS 439B.120.

(b) "Medicare" has the meaning ascribed to it in NRS 439B.130.

Sec. 5. ~~NRS 449.001 is hereby amended to read as follows:~~
~~449.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 449.0015 to 449.0195, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.~~
(Deleted by amendment.)

Senator Raggio moved that the Senate concur in the Assembly amendment to Senate Bill No. 314.

Remarks by Senator Raggio.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 329.

The following Assembly amendment was read:

Amendment No. 810.

"SUMMARY—Prohibits a person from allowing a cat or dog to remain unattended in a motor vehicle under certain circumstances. (BDR 50-950)"

"AN ACT relating to animals; prohibiting a person from allowing a cat or dog to remain unattended in a parked or standing motor vehicle in a manner that endangers the health or safety of the cat or dog; authorizing a peace officer to use force to remove a cat or dog from a motor vehicle under certain circumstances; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a person is prohibited from instigating, engaging in or in any way furthering an act of cruelty to an animal. (NRS 574.100) Such an act includes, without limitation, unjustifiably injuring or maiming an animal or carrying an animal in a vehicle in a cruel or inhuman manner. (NRS 574.100, 574.190)

Section 2 of this bill makes it a misdemeanor for a person to allow a cat or dog to remain unattended in a parked or standing car during a period of extreme heat or cold or in any other manner that endangers the health or safety of the cat or dog. Section 2 authorizes a peace officer and certain other persons to use any force that is reasonable and necessary under the circumstances to remove the cat or dog from the motor vehicle. Section 5 of this bill provides that the existing general exemptions from the provisions of chapter 574 of NRS also apply to the activities specified in section 2 of this bill. Those exemptions include, without limitation, the handling, housing and transporting of livestock or farm animals.

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

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 574 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 3, a person shall not allow a cat or dog to remain unattended in a parked or standing motor vehicle during a period of extreme heat or cold or in any other manner that endangers the health or safety of the cat or dog.*

2. *Any:*

- (a) Peace officer;*
- (b) Officer of a society for the prevention of cruelty to animals who is authorized to make arrests pursuant to NRS 574.040;*
- (c) Animal control officer;*
- (d) Governmental officer or employee whose primary duty is to ensure public safety;*
- (e) Employee or volunteer of any organized fire department; or*
- (f) Member of a search and rescue organization in this State that is under the direct supervision of a sheriff,*

↪ may use any force that is reasonable and necessary under the circumstances to remove from a motor vehicle a cat or dog that is allowed to remain in the motor vehicle in violation of subsection 1.

3. The provisions of subsection 1 do not apply to:

(a) A police animal or an animal that is used by :

(1) A federal law enforcement agency to assist the agency in carrying out the duties of the agency; or

(2) A search and rescue organization specified in paragraph (f) of subsection 2 to assist the organization in carrying out the activities of the organization; or

(b) A dog that is under the possession or control of:

(1) An animal control officer; or

(2) A first responder during an emergency. ~~[-] or~~

~~(c) A dog that is transported or used for hunting a species of game mammal.~~

~~(1) During the season for hunting that species of game mammal; and~~

~~(2) By a person who is the holder of a license or tag to hunt that species of game mammal during that season.]~~

4. A cat or dog that is removed from a motor vehicle pursuant to subsection 2 shall be deemed to be an animal being treated cruelly for the purposes of NRS 574.055. The person who removed the cat or dog may take any action relating to the cat or dog specified in that section and is entitled to any lien or immunity from liability that is applicable pursuant to that section.

5. A person who violates a provision of subsection 1 is guilty of a misdemeanor.

Sec. 3. (Deleted by amendment.)

Sec. 4. NRS 574.050 is hereby amended to read as follows:

574.050 As used in NRS 574.050 to 574.200, inclusive ~~[-]~~, and section 2 of this act:

1. "Animal" does not include the human race, but includes every other living creature.

2. "First responder" means a person who has successfully completed the national standard course for first responders.

3. "Police animal" means an animal which is owned or used by a state or local governmental agency and which is used by a peace officer in performing his duties as a peace officer.

~~[3-]~~ 4. "Torture" or "cruelty" includes every act, omission or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

Sec. 5. NRS 574.200 is hereby amended to read as follows:

574.200 The provisions of NRS 574.050 to 574.510, inclusive, and section 2 of this act do not:

1. Interfere with any of the fish and game laws contained in title 45 of NRS or any laws for the destruction of certain birds.

2. Interfere with the right to destroy any venomous reptiles or animals, or any animal known as dangerous to life, limb or property.

3. Interfere with the right to kill all animals and fowl used for food.

4. Prohibit or interfere with any properly conducted scientific experiments or investigations which are performed under the authority of the faculty of some regularly incorporated medical college or university of this State.

5. Interfere with any scientific or physiological experiments conducted or prosecuted for the advancement of science or medicine.

6. Prohibit or interfere with established methods of animal husbandry, including the raising, handling, feeding, housing and transporting of livestock or farm animals.

Senator Rhoads moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 329.

Remarks by Senator Rhoads.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 374.

The following Assembly amendment was read:

Amendment No. 749.

"SUMMARY—Makes certain changes concerning tax increment areas. (BDR 22-816)"

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

Legislative Counsel's Digest:

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

Under existing law, the total revenue paid to a tax increment area is limited to 10 percent if the population of the applicable municipality is

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

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

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

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

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

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

(b) Which:

(1) Consists of not more than 509 acres;

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

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

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

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

2. *Whenever the governing body of a city in which the principal campus of the Nevada State College is located or intended to be located and the Board of Regents of the University of Nevada determine that the interests of the city, the Nevada System of Higher Education and the public require an undertaking, the governing body and the Board of Regents may enter into a*

cooperative agreement pursuant to NRS 277.080 to 277.180, inclusive, which describes by reference to the general types of undertakings authorized pursuant to NRS 278C.140 and the undertakings proposed for the tax increment area, and which contains or refers to an exhibit filed with the clerk of the city and the Secretary of the Board of Regents which contains:

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

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

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

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

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

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

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

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

5. If, after considering all properly submitted and relevant written and oral complaints, protests, objections and other relevant comments and after considering any other relevant material, the governing body determines that the undertaking is in the public interest and defines that public interest, the governing body shall determine whether to proceed with the undertaking. If the governing body has ordered any modification to an undertaking and has determined to proceed, the governing body must consult with the Board of Regents to obtain its consent to the proposed modification. When the Board of Regents and the governing body are in agreement on the modification, if any, and a statement of the modification is filed with the clerk, if the

governing body wants to proceed with the undertaking, the governing body shall adopt an ordinance in the same manner as any other ordinance:

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

(b) Ordering the undertaking;

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

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

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

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

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

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

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

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

1. In the case of counties:

- (a) A drainage and flood control project, as defined in NRS 244A.027;
- (b) An overpass project, as defined in NRS 244A.037;
- (c) A sewerage project, as defined in NRS 244A.0505;
- (d) A street project, as defined in NRS 244A.053;
- (e) An underpass project, as defined in NRS 244A.055; or
- (f) A water project, as defined in NRS 244A.056.

2. In the case of cities:

- (a) A drainage project or flood control project, as defined in NRS 268.682;
- (b) An overpass project, as defined in NRS 268.700;
- (c) A sewerage project, as defined in NRS 268.714;
- (d) A street project, as defined in NRS 268.722;
- (e) An underpass project, as defined in NRS 268.726; or
- (f) A water project, as defined in NRS 268.728.

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

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

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

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

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

(a) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for each of those taxing agencies upon the total sum of the assessed value of the taxable property in the tax increment area as shown upon the last equalized assessment roll used in connection with the taxation of the property by the taxing agency, must be allocated to and when collected must be paid into the funds of the respective taxing agencies as taxes by or for the taxing agencies on all other property are paid.

(b) Except as otherwise provided in this section, the portion of the taxes levied each year in excess of the amount determined pursuant to paragraph (a) must be allocated to, and when collected must be paid into, the tax increment account pertaining to the undertaking to pay the bond requirements of loans, money advanced to, or indebtedness, whether funded, refunded, assumed or otherwise, incurred by the municipality to finance or refinance, in whole or in part, the undertaking. Unless the total assessed

valuation of the taxable property in the tax increment area exceeds the total assessed value of the taxable property in the area as shown by the last equalized assessment roll referred to in this subsection, all of the taxes levied and collected upon the taxable property in the area must be paid into the funds of the respective taxing agencies. When the loans, advances and indebtedness, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the tax increment area must be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Subsection 1 does not apply to:

(a) Property located upon a public airport, park, market or fairground, or any property owned by a public airport, unless the property owned by the public airport is not located upon the public airport and the property is leased, loaned or otherwise made available for purposes other than for the purposes

of a public airport, including, without limitation, residential, commercial or industrial purposes;

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

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

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

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

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

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

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

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

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

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

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

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

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

Senator McGinness moved that the Senate concur in the Assembly amendment to Senate Bill No. 374.

Remarks by Senator McGinness.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 398.

The following Assembly amendment was read:

Amendment No. 824.

"SUMMARY—Provides for a pilot program ~~to~~ to study English immersion and English language learner programs in certain public schools. (BDR S-940)"

"AN ACT relating to education; providing for a pilot program ~~to~~ to study English immersion and English language learner programs in certain public schools selected by the Department of Education; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Board of Education to establish a program to teach the English language to pupils who are limited English proficient. (NRS 388.405) This bill establishes a pilot program ~~to~~ to study English immersion and English language learner programs for pupils who are limited English proficient. The Department of Education shall select the public schools to participate in the pilot program, ~~which must provide for the immersion in the English language of pupils who are limited English proficient and enrolled in a public school that is selected to participate.~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. 1. There is hereby created a pilot program ~~to~~ to study English immersion and English language learner programs for pupils who are limited English proficient. The Department of Education shall select the public schools to participate in the pilot program, with particular emphasis on those public schools and school districts in this State with a high percentage of pupils who are limited English proficient.

2. The public schools selected for participation in the program shall use the same teachers and other resources as they would have used if the school was not participating in the pilot program to provide for the ~~immersion in the English language of pupils who are limited English proficient,~~ study of English immersion and English language learner programs, including, without limitation, a system whereby ~~those~~ pupils who are limited English proficient remain in the regular school classroom and the teacher for English language learners coteaches with the regular classroom teacher at appropriate time periods during the school day or school week.

3. On or before ~~February 1, 2009,~~ July 1, 2008, the board of trustees of each school district that includes a public school which is selected to participate in the pilot program ~~may~~ shall report on the status of the pilot

program to the Legislative Committee on Education, including, without limitation:

- (a) The name of each public school that participated;
- (b) The number of limited English proficient pupils in each public school that participated;
- (c) An evaluation of the effectiveness of the program in closing the achievement gap, if any, among those pupils that participated and the pupils enrolled in the school as a whole;
- (d) Any recommendations for legislation; and
- (e) Any other information the ~~(Board)~~ board deems appropriate.

4. On or before February 1, 2009, the board of trustees of each school district that includes a public school which is selected to participate in the pilot program shall provide a final written report of the information required by subsection 3 to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Legislature.

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

Senator Washington moved that the Senate concur in the Assembly amendment to Senate Bill No. 398.

Remarks by Senator Washington.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 403.

The following Assembly amendment was read:

Amendment No. 725.

"SUMMARY—Revises provisions relating to group health insurance. (BDR 57-778)"

"AN ACT relating to insurance; providing requirements relating to coverage for group health insurance to certain associations; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides requirements concerning group health insurance. (Chapter 689B of NRS) This bill provides requirements for the provision of coverage for group health insurance to members, employees of members and employees of a guaranteed association.

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

Section 1. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. An insurer may offer a policy of group health insurance to a guaranteed association if the policy provides coverage for ~~500~~ 200 or more members, employees of members or employees of the guaranteed association or their dependents.

2. When an insurer offers coverage to a guaranteed association pursuant to subsection 1, the insurer shall offer coverage to all members, employees of

members and employees of the guaranteed association and all dependents thereof without regard to the actual or expected health status of any such member or employee or dependent thereof. The provisions of this subsection apply only for the purpose of requiring coverage to be offered to all such members, employees and dependents.

3. *An insurer offering coverage to a guaranteed association pursuant to subsection 1 shall establish rates for premiums as follows:*

(a) For the initial 12-month period of coverage, the insurer shall submit to the Commissioner the opinion of a qualified actuary that the rates charged by the guaranteed association for premiums are actuarially sound. The opinion must certify the accuracy of the rating methodology as established by the American Academy of Actuaries or a successor organization approved by the Commissioner. The Commissioner by regulation may further define or enlarge the scope of this opinion.

(b) For any subsequent 12-month period of coverage, according to a rating methodology as established by the American Academy of Actuaries or a successor organization approved by the Commissioner.

4. *Except as otherwise provided in subsection 5, a member, employee of a member or employee of a guaranteed association may apply for coverage offered pursuant to subsection 1 only:*

(a) If, as applicable, the person has been an active member of the association or employed by a member or the guaranteed association for not less than 30 days;

(b) During an annual open enrollment period offered by the guaranteed association; and

(c) After meeting any additional eligibility requirements agreed upon by the guaranteed association and the insurer.

5. *If a member, employee of a member or employee of a guaranteed association or a dependent thereof terminates coverage offered pursuant to subsection 1, the member, employee or dependent must be excluded from such coverage until the beginning of the next annual enrollment period. During the next annual enrollment period or any annual enrollment period thereafter, such a member or employee may enroll for coverage of the member or employee or dependent thereof pursuant to subsection 4.*

6. *The provisions of this section do not apply to or affect the status of a person, including, without limitation, whether the person is an employee, self-employed or an independent contractor, for the purposes of industrial insurance or any other law relating to labor or employment.*

7. *As used in this section:*

(a) "Guaranteed association" means an association which:

(1) Has a constitution and bylaws;

(2) Is determined by the Commissioner to be a bona fide association which was organized and is maintained in good faith for purposes other than that of obtaining insurance; and

(3) Has been in existence for at least 5 years.

(b) "Qualified actuary" means a member in good standing of the American Academy of Actuaries, or a successor organization approved by the Commissioner.

Sec. 2. The provisions of subparagraph 3 of paragraph (a) of subsection 7 of section 1 of this act do not apply to an association which was in existence on January 1, 2007.

Senator Townsend moved that the Senate concur in the Assembly amendment to Senate Bill No. 403.

Remarks by Senator Townsend.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 409.

The following Assembly amendment was read:

Amendment No. 924.

"SUMMARY—~~[Requires policies of health]~~ *Revises provisions governing insurance [and health plans to provide]* coverage for a vaccine to protect against cervical cancer ~~and~~ *and screenings for prostate cancer.* (BDR 57-1077)"

"AN ACT relating to insurance; requiring policies of health insurance to provide coverage for the human papillomavirus vaccine to protect against cervical cancer; requiring the Director of the Department of Health and Human Services to include coverage for the human papillomavirus vaccine in the State Plan for Medicaid; *requiring certain policies of health insurance to provide coverage for screenings for prostate cancer under certain circumstances;* and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires certain public and private health care plans and policies of insurance to provide coverage for certain procedures, including colorectal cancer screenings, cytological screening tests and mammograms, under certain circumstances. (NRS 287.027, 287.04335, 689A.04042, 689A.0405, 689B.0367, 689B.0374, 695B.1907, 695B.1912, 695C.1731, 695C.1735, 695G.168)

Sections 2, ~~5~~, 6, 7 and ~~8~~ of this bill require policies of individual health insurance, policies of group health insurance, policies of health insurance issued by a hospital or medical service corporation, *health care plans of health maintenance [plans] organizations* and health care plans issued by managed care organizations to provide coverage for expenses incurred for the human papillomavirus vaccine administered to women and girls in this State. The policies of health insurance may not require the insured women and girls to receive prior authorization for the vaccine. The human papillomavirus vaccine is defined as either the currently available Quadrivalent Human Papillomavirus Recombinant Vaccine or any successor it may have which is approved by the Food and Drug Administration for the prevention of the human papillomavirus or cervical cancer. ~~Section 10 of~~

~~this bill requires the Public Employees' Benefits Program to~~ Sections 9.3 and 10 of this bill require that plans of self-insurance provided by certain governmental agencies include the same coverage ~~[in any plan of self-insurance the Program provides.]~~ Section 11 of this bill requires that the Director of the Department of Health and Human Services include coverage for the human papillomavirus vaccine in the State Plan for Medicaid.

Sections 2.5, 5.5, 6.5, 7.5 and 8.5 of this bill require policies of individual health insurance, policies of group health insurance, policies of health insurance issued by a hospital or medical service corporation, health care plans of health maintenance organizations and health care plans issued by managed care organizations that provide coverage for the treatment of prostate cancer also to provide coverage for screening for prostate cancer under certain circumstances. The policies of health insurance may not require an insured person to obtain prior authorization for the screening. Sections 9.5 and 10 of this bill require that plans of self-insurance provided by certain governmental agencies include the same coverage.

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

Section 1. NRS 687B.225 is hereby amended to read as follows:

687B.225 1. Except as otherwise provided in NRS 689A.0405, 689A.0413, 689B.031, 689B.0374, 695B.1912, 695B.1914, 695C.1713, 695C.1735 and 695G.170, ~~and sections 2 and 5 to 8, inclusive,~~ 2.5, 5, 5.5, 6, 6.5, 7, 7.5, 8 and 8.5 of this act, any contract for group, blanket or individual health insurance or any contract by a nonprofit hospital, medical or dental service corporation or organization for dental care which provides for payment of a certain part of medical or dental care may require the insured or member to obtain prior authorization for that care from the insurer or organization. The insurer or organization shall:

(a) File its procedure for obtaining approval of care pursuant to this section for approval by the Commissioner; and

(b) Respond to any request for approval by the insured or member pursuant to this section within 20 days after it receives the request.

2. The procedure for prior authorization may not discriminate among persons licensed to provide the covered care.

Sec. 1.9. Chapter 689A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 2.5 of this act.

~~Sec. 2. [Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:]~~

1. A policy of health insurance must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine to women and girls at such ages as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.

2. *A policy of health insurance must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.*

3. *A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.*

4. *For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.*

Sec. 2.5. 1. A policy of health insurance that provides coverage for the treatment of prostate cancer must provide coverage for prostate cancer screening in accordance with:

(a) The guidelines concerning prostate cancer screening which are published by the American Cancer Society; or

(b) Other guidelines or reports concerning prostate cancer screening which are published by nationally recognized professional organizations and which include current or prevailing supporting scientific data.

2. A policy of health insurance that provides coverage for the treatment of prostate cancer must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. A policy of health insurance that provides coverage for the treatment of prostate cancer which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.

Sec. 3. NRS 689A.040 is hereby amended to read as follows:

689A.040 1. Except as *otherwise* provided in subsections 2 and 3, each such policy delivered or issued for delivery to any person in this State must contain the provisions specified in NRS 689A.050 to 689A.170, inclusive, *and section 2 of this act* in the words in which the provisions appear, except that the insurer may, at its option, substitute for one or more of the provisions corresponding provisions of different wording approved by the Commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Each such provision must be preceded individually by the applicable caption shown, or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the Commissioner may approve.

2. Each policy delivered or issued for delivery in this State after November 1, 1973, must contain a provision, if applicable, setting forth the provisions of NRS 689A.045.

3. If any such provision is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the Commissioner, may omit from the policy any inapplicable provision or part of a provision, and shall modify any

inconsistent provision or part of a provision in such a manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

Sec. 4. NRS 689A.330 is hereby amended to read as follows:

689A.330 If any policy is issued by a domestic insurer for delivery to a person residing in another state, and if the insurance commissioner or corresponding public officer of that other state has informed the Commissioner that the policy is not subject to approval or disapproval by that officer, the Commissioner may by ruling require that the policy meet the standards set forth in NRS 689A.030 to 689A.320, inclusive ~~[-]~~ , and ~~section 2 and 2.5 of this act.~~

Sec. 4.9. Chapter 689B of NRS is hereby amended by adding thereto the provisions set forth as sections 5 and 5.5 of this act.

Sec. 5. ~~[Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:]~~

1. A policy of group health insurance must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine to women and girls at such ages as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.

2. A policy of group health insurance must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.

4. For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

Sec. 5.5. *1. A policy of group health insurance that provides coverage for the treatment of prostate cancer must provide coverage for prostate cancer screening in accordance with:*

(a) The guidelines concerning prostate cancer screening which are published by the American Cancer Society; or

(b) Other guidelines or reports concerning prostate cancer screening which are published by nationally recognized professional organizations and which include current or prevailing supporting scientific data.

2. A policy of group health insurance that provides coverage for the treatment of prostate cancer must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. A policy of group health insurance that provides coverage for the treatment of prostate cancer which is delivered, issued for delivery or

renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.

Sec. 5.9. Chapter 695B of NRS is hereby amended by adding thereto the provisions set forth as sections 6 and 6.5 of this act.

~~Sec. 6. [Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:]~~

1. A policy of health insurance issued by a hospital or medical service corporation must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine to women and girls at such ages as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.

2. A policy of health insurance issued by a hospital or medical service corporation must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. A policy subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.

4. For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

Sec. 6.5. 1. A policy of health insurance issued by a hospital or medical service corporation that provides coverage for the treatment of prostate cancer must provide coverage for prostate cancer screening in accordance with:

(a) The guidelines concerning prostate cancer screening which are published by the American Cancer Society; or

(b) Other guidelines or reports concerning prostate cancer screening which are published by nationally recognized professional organizations and which include current or prevailing supporting scientific data.

2. A policy of health insurance issued by a hospital or medical service corporation that provides coverage for the treatment of prostate cancer must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. A policy of health insurance issued by a hospital or medical service corporation that provides coverage for the treatment of prostate cancer which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the policy or the renewal which is in conflict with subsection 1 is void.

Sec. 6.9. Chapter 695C of NRS is hereby amended by adding thereto the provisions set forth as sections 7 and 7.5 of this act.

Sec. 7. ~~[Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:]~~

1. A health care plan of a health maintenance ~~(plan)~~ organization must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine to women and girls at such ages as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.

2. A health care plan of a health maintenance ~~(plan)~~ organization must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. Any evidence of coverage subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsection 1 is void.

4. For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

Sec. 7.5. 1. A health care plan of a health maintenance organization that provides coverage for the treatment of prostate cancer must provide coverage for prostate cancer screening in accordance with:

(a) The guidelines concerning prostate cancer screening which are published by the American Cancer Society; or

(b) Other guidelines or reports concerning prostate cancer screening which are published by nationally recognized professional organizations and which include current or prevailing supporting scientific data.

2. A health care plan of a health maintenance organization that provides coverage for the treatment of prostate cancer must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. Any evidence of coverage for a health care plan of a health maintenance organization that provides coverage for the treatment of prostate cancer which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsection 1 is void.

Sec. 7.6. NRS 695C.050 is hereby amended to read as follows:

695C.050 1. Except as otherwise provided in this chapter or in specific provisions of this title, the provisions of this title are not applicable to any health maintenance organization granted a certificate of authority under this chapter. This provision does not apply to an insurer licensed and regulated

pursuant to this title except with respect to its activities as a health maintenance organization authorized and regulated pursuant to this chapter.

2. Solicitation of enrollees by a health maintenance organization granted a certificate of authority, or its representatives, must not be construed to violate any provision of law relating to solicitation or advertising by practitioners of a healing art.

3. Any health maintenance organization authorized under this chapter shall not be deemed to be practicing medicine and is exempt from the provisions of chapter 630 of NRS.

4. The provisions of NRS 695C.110, 695C.125, 695C.1691, 695C.1693, 695C.170 to 695C.200, inclusive, and section 7.5 of this act, 695C.250 and 695C.265 do not apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid or insurance pursuant to the Children's Health Insurance Program pursuant to a contract with the Division of Health Care Financing and Policy of the Department of Health and Human Services. This subsection does not exempt a health maintenance organization from any provision of this chapter for services provided pursuant to any other contract.

5. The provisions of NRS 695C.1694, 695C.1695 and 695C.1731 apply to a health maintenance organization that provides health care services through managed care to recipients of Medicaid under the State Plan for Medicaid.

Sec. 7.7. NRS 695C.330 is hereby amended to read as follows:

695C.330 1. The Commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization pursuant to the provisions of this chapter if he finds that any of the following conditions exist:

(a) The health maintenance organization is operating significantly in contravention of its basic organizational document, its health care plan or in a manner contrary to that described in and reasonably inferred from any other information submitted pursuant to NRS 695C.060, 695C.070 and 695C.140, unless any amendments to those submissions have been filed with and approved by the Commissioner;

(b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of NRS 695C.1691 to 695C.200, inclusive, and sections 7 and 7.5 of this act, or 695C.207;

(c) The health care plan does not furnish comprehensive health care services as provided for in NRS 695C.060;

(d) The State Board of Health certifies to the Commissioner that the health maintenance organization:

(1) Does not meet the requirements of subsection 2 of NRS 695C.080;
or

(2) Is unable to fulfill its obligations to furnish health care services as required under its health care plan;

(e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(f) The health maintenance organization has failed to put into effect a mechanism affording the enrollees an opportunity to participate in matters relating to the content of programs pursuant to NRS 695C.110;

(g) The health maintenance organization has failed to put into effect the system required by NRS 695C.260 for:

(1) Resolving complaints in a manner reasonably to dispose of valid complaints; and

(2) Conducting external reviews of final adverse determinations that comply with the provisions of NRS 695G.241 to 695G.310, inclusive;

(h) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive or unfair manner;

(i) The continued operation of the health maintenance organization would be hazardous to its enrollees;

(j) The health maintenance organization fails to provide the coverage required by NRS 695C.1691; or

(k) The health maintenance organization has otherwise failed to comply substantially with the provisions of this chapter.

2. A certificate of authority must be suspended or revoked only after compliance with the requirements of NRS 695C.340.

3. If the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of that suspension, enroll any additional groups or new individual contracts, unless those groups or persons were contracted for before the date of suspension.

4. If the certificate of authority of a health maintenance organization is revoked, the organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the organization. It shall engage in no further advertising or solicitation of any kind. The Commissioner may, by written order, permit such further operation of the organization as he may find to be in the best interest of enrollees to the end that enrollees are afforded the greatest practical opportunity to obtain continuing coverage for health care.

Sec. 7.9. Chapter 695G of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 8.5 of this act.

~~Sec. 8. [Chapter 695G of NRS is hereby amended by adding thereto a new section to read as follows:]~~

1. A health care plan issued by a managed care organization must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine to women and girls at such ages as recommended for vaccination by a competent authority, including,

without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.

2. A health care plan must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. An evidence of coverage for a health care plan subject to the provisions of this chapter which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal thereof which is in conflict with subsection 1 is void.

4. For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

Sec. 8.5. 1. A health care plan issued by a managed care organization that provides coverage for the treatment of prostate cancer must provide coverage for prostate cancer screening in accordance with:

(a) The guidelines concerning prostate cancer screening which are published by the American Cancer Society; or

(b) Other guidelines or reports concerning prostate cancer screening which are published by nationally recognized professional organizations and which include current or prevailing supporting scientific data.

2. A health care plan issued by a managed care organization that provides coverage for the treatment of prostate cancer must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. Any evidence of coverage for a health care plan issued by a managed care organization that provides coverage for the treatment of prostate cancer which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the evidence of coverage or the renewal which is in conflict with subsection 1 is void.

Sec. 8.9. Chapter 287 of NRS is hereby amended by adding thereto the provisions set forth as sections 9.3 and 9.5 of this act.

Sec. 9. (Deleted by amendment.)

Sec. 9.3. 1. If the governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada provides health insurance through a plan of self-insurance, the plan must provide coverage for benefits payable for expenses incurred for administering the human papillomavirus vaccine to women and girls at such ages as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.

2. The plan of self-insurance must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. A plan of self-insurance described in subsection 1 which is delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the plan which is in conflict with subsection 1 is void.

4. For the purposes of this section, "human papillomavirus vaccine" means the Quadrivalent Human Papillomavirus Recombinant Vaccine or its successor which is approved by the Food and Drug Administration for the prevention of human papillomavirus infection and cervical cancer.

Sec. 9.5. 1. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada which provides health insurance through a plan of self-insurance that provides coverage for the treatment of prostate cancer shall provide coverage for prostate cancer screening in accordance with:

(a) The guidelines concerning prostate cancer screening which are published by the American Cancer Society; or

(b) Other guidelines or reports concerning prostate cancer screening which are published by nationally recognized professional organizations and which include current or prevailing supporting scientific data.

2. A plan of self-insurance that provides coverage for the treatment of prostate cancer must not require an insured to obtain prior authorization for any service provided pursuant to subsection 1.

3. A plan of self-insurance that provides coverage for the treatment of prostate cancer which is offered, delivered, issued for delivery or renewed on or after July 1, 2007, has the legal effect of including the coverage required by subsection 1, and any provision of the plan or the renewal which is in conflict with subsection 1 is void.

Sec. 10. NRS 287.04335 is hereby amended to read as follows:

287.04335 If the Board provides health insurance through a plan of self-insurance, it shall comply with the provisions of NRS 689B.255, 695G.150, 695G.160, 695G.164, 695G.170, 695G.173, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, and ~~section 8~~ sections 8 and 8.5 of this act in the same manner as an insurer that is licensed pursuant to title 57 of NRS is required to comply with those provisions.

Sec. 11. Chapter 422 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director shall include in the State Plan for Medicaid a requirement that the State shall pay the nonfederal share of expenses incurred for administering the human papillomavirus vaccine to women and girls at such ages as recommended for vaccination by a competent authority, including, without limitation, the Centers for Disease Control and Prevention

of the United States Department of Health and Human Services, the Food and Drug Administration or the manufacturer of the vaccine.

2. For the purposes of this section, "human papillomavirus vaccine" means the *Quadrivalent Human Papillomavirus Recombinant Vaccine* or its successor which is approved by the Food and Drug Administration to be used for the prevention of human papillomavirus infection and cervical cancer.

Sec. 11.5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 12. This act becomes effective on July 1, 2007.

Senator Townsend moved that the Senate concur in the Assembly amendment to Senate Bill No. 409.

Remarks by Senator Townsend.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 497.

The following Assembly amendment was read:

Amendment No. 783.

"SUMMARY—Revises provisions relating to certain public facilities. (BDR 20-1352)"

"AN ACT relating to public facilities; authorizing the boards of county commissioners of certain larger counties to adopt procedures for the sale of the naming rights to a shooting range owned by the county; requiring boards of county commissioners that sell naming rights relating to a shooting range to create an enterprise fund for the shooting range; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, boards of county commissioners are authorized to acquire parcels of land for park, recreational, cultural and memorial purposes and to operate, maintain and improve parks and other recreational and cultural facilities and areas owned by the county. (NRS 244.300-244.3091) Section 2 of this bill authorizes a board of county commissioners in a county whose population is 400,000 or more (currently Clark County) to adopt by ordinance procedures for the sale of the naming rights to a shooting range owned by the county. Section 2 also requires a board of county commissioners that sells the naming rights relating to a shooting range to create an enterprise fund for proceeds from the shooting range and from the sale of the naming rights. Money in the fund may be used only to pay expenses directly related to the shooting range.

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

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of county commissioners in a county whose population is 400,000 or more may adopt, by ordinance, procedures for the sale of ~~the~~ naming rights relating to a shooting range that is owned by the county ~~for~~, including, without limitation, the sale of naming rights to:

(a) Buildings, improvements, facilities, features, fixtures and sites located within the boundaries of the shooting range; and

(b) Activities, events and programs held at the shooting range.

2. If the board of county commissioners sells naming rights in accordance with the procedures adopted pursuant to subsection 1, the board shall create an enterprise fund exclusively for the proceeds of the sale of all such naming rights, for fees or charges for use of the shooting range and for any gifts, grants, donations, bequests, devises or money from any other source received for the shooting range. Any interest or other income earned on the money in the fund, after deducting any applicable charges, must be credited to the fund. Money that remains in the fund at the end of a fiscal year does not revert to the county general fund and the balance in the fund must be carried forward to the next fiscal year. The money in the fund may only be used to pay for expenses directly related to the shooting range.

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

Senator Hardy moved that the Senate concur in the Assembly amendment to Senate Bill No. 497.

Remarks by Senators Hardy, Carlton and Horsford.

Senator Carlton requested that the following remarks be entered in the Journal.

SENATOR CARLTON:

Thank you, Mr. President. Not being involved in the discussions and negotiations on these naming rights, could the chair of the committee elaborate on the policies and the procedures. How are they going to say "no, this is not the Victoria's Secret Shooting Range." I would like to understand how we are going to choose the different names.

SENATOR HARDY:

Thank you, Mr. President. This bill allows the board of county commissioners to adopt an ordinance. The idea is that most of these shooting parks that are successful have events and pavilions with entities such as Remington, Glock or Winchester, sponsoring one of the ranges or sponsoring an event. The decision on how that is going to occur will be made by ordinance adopted by the county commissioners.

SENATOR CARLTON:

One of the things I would like this body to do is, possibly through legislative intent and on the floor give the municipalities some guidance on some of these ordinances so that a few years from now someone does not walk up to one of us and say, "So, you let them name this after this?" There could be some problems. There are some businesses out there that especially with young people being involved in this sport. We need to be careful about what range it actually is and what a pavilion is actually named after. Could we give them some guidance in this?

SENATOR HARDY:

Thank you, Mr. President. The concern expressed by my colleague is a legitimate one. In the statute, we have narrowly defined what they can name. It is quite specific, especially with the Assembly's amendment. The issue you have addressed is a legitimate concern. The committee felt the best way to deal with it was to give the right to make those adjustments to the level of

government closest to the people. Instead of having to come back every two years to make any changes, we tried to be as specific as we could by policy to which facilities a name could be applied. We felt it was the best policy decision that the regulations should be left at a more fluid level of government.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 502.

The following Assembly amendment was read:

Amendment No. 850.

"SUMMARY—Revises various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement and repeals certain obsolete provisions for the administration of those taxes. (BDR 32-556)"

"AN ACT relating to taxes on retail sales; revising various provisions governing sales and use taxes to ensure continued compliance with the Streamlined Sales and Use Tax Agreement; providing for the direct payment by certain purchasers of any sales and use taxes due to an Indian reservation or Indian colony in this State; providing for the submission to the voters of the question whether the Sales and Use Tax Act of 1955 should be amended to repeal a tax exemption for the sale of aircraft and major components of aircraft to an airline based in Nevada and to authorize the Legislature to amend or repeal a provision of that Act without additional voter approval when necessary to carry out a federal law or interstate agreement for the administration of sales and use taxes; repealing certain obsolete provisions for the administration of sales and use taxes; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the administration of sales and use taxes in this State pursuant to the Simplified Sales and Use Tax Administration Act, the Sales and Use Tax Act and the Local School Support Tax Law. (Chapters 360B, 372 and 374 of NRS) Under existing law, the Legislature has found and declared that this State should enter into an interstate agreement to simplify and modernize sales and use tax administration to reduce the burden of tax compliance for all sellers and types of commerce. (NRS 360B.020) Existing law requires the Nevada Tax Commission to enter into the Streamlined Sales and Use Tax Agreement and take all other actions reasonably required to implement the provisions of the Agreement. (NRS 360B.110) Sections 2, 5-7 and 15-17 of this bill set forth and clarify various administrative definitions required pursuant to the Agreement, as amended. Section 3 of this bill contains the requirements of a recent amendment to the Agreement regarding the certification by the State of the software of certain computer programs that calculate the taxes due on a sale and the provision of a limited waiver of liability for the persons who rely on that certification. Section 9 of this bill carries out a recent amendment to the

Agreement regarding the conditions under which multiple remittances of taxes may be required for a single tax return from a seller who registers under the Agreement. Section 10 of this bill clarifies the duties of the Department of Taxation to post on its website certain tax information required by the Agreement. Section 11 of this bill clarifies the statutory provisions governing the contents and use of a list required by the Agreement for determining the combined rate of taxes imposed in each zip code. Section 12 of this bill carries out and clarifies the requirements of the Agreement, as amended, to waive the liability of sellers and purchasers who rely on the tax information posted on the Department's website in accordance with the Agreement.

Existing law authorizes a person who obtains a direct pay permit to pay any applicable sales and use taxes due on certain purchases directly to this State and its local governments instead of to the seller. (NRS 360B.260) Section 13 of this bill additionally provides for the direct payment of any applicable sales and use taxes due on such a purchase to an Indian reservation or Indian colony in this State.

Under existing law, persons who desire to conduct business as sellers in this State must register pursuant to the Streamlined Sales and Use Tax Agreement or obtain permits from the Department of Taxation. (NRS 372.125 and 374.130) Sections 18-20 and 28-30 of this bill clarify that the statutory provisions applicable to an application for such a permit do not apply to the registration of a seller pursuant to the Agreement.

Existing law creates a presumption that a sale is subject to sales and use taxes unless the seller obtains a certificate from the purchaser indicating that the property is purchased for resale. (NRS 372.155, 372.225, 374.160, 374.230) Sections 21-25 and 31-35 of this bill revise the statutory provisions governing resale certificates to combine some of the existing provisions for clarity and to carry out the requirements of the Streamlined Sales and Use Tax Agreement regarding the acceptance of resale certificates from certain third-party vendors, the contents of resale certificates and the liability of a seller for the improper use of a resale certificate by a purchaser.

Existing law prohibits the Department of Taxation, in administering use taxes, from considering the taxability of certain property acquired free of charge at a convention, trade show or other public event. (NRS 372.7275, 374.726) Sections 27 and 37 of this bill ensure that existing law does not appear to create a threshold for the application of a sales or use tax, as prohibited by the Streamlined Sales and Use Tax Agreement.

Existing law authorizes the adoption of an ordinance for the imposition of a sales and use tax in Clark County to employ and equip additional police officers. (Clark County Sales and Use Tax Act of 2005) Section 38 of this bill revises the requirements for such an ordinance in accordance with the provisions of the Streamlined Sales and Use Tax Agreement requiring a common state and local tax base and imposing restrictions on the date of implementation of changes in tax rates.

Existing law includes various provisions of the Sales and Use Tax Act of 1955. (NRS 372.010-372.115, 372.185-372.205, 372.260-372.284, 372.285-372.325, 372.327-372.345, 372.350) Under existing law, the provisions of that Act, which was submitted to and approved by the voters at the 1956 General Election, cannot be amended or repealed without additional voter approval. (Nev. Const. Art. 19, § 1) Sections 39-47 of this bill provide for the submission to the voters of an amendment to that Act to authorize the Legislature to amend that Act without any additional voter approval as necessary to carry out any federal law or interstate agreement for the administration of sales and use taxes, unless the amendment would increase the rate of a tax imposed pursuant to that Act, and to repeal a section of that Act that was declared unconstitutional by the Nevada Supreme Court in *Worldcorp v. State, Department of Taxation*, 113 Nev. 1032 (1997).

Section 49 of this bill repeals NRS 360B.270 in accordance with a recent amendment to the Streamlined Sales and Use Tax Agreement, NRS 372.160, 372.230, 374.165 and 374.235, the provisions of which have been incorporated into other statutes by sections 21, 24, 31 and 34 of this bill, NRS 372.728 and 374.728, which are obsolete, and, if the proposed amendment to the Sales and Use Tax Act of 1955 is approved by the voters, NRS 372.726, which provides for the administration of the section hat was declared unconstitutional.

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

Section 1. Chapter 360B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Person" includes a government, governmental agency or political subdivision of a government.*

Sec. 3. *The Department shall:*

1. *Review the software submitted for the certification of a certified automated system pursuant to the Agreement and, if the Department determines that the software adequately classifies each exemption from the sales and use taxes imposed in this State which is based upon the description of a product, certify its acceptance of the classifications made by the system.*

2. *Except as otherwise provided in subsection 3:*

(a) *If a certified service provider acting on behalf of a registered seller fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reliance on the certification of the Department pursuant to subsection 1 regarding the certified automated system used by that certified service provider, waive any liability of the certified service provider, and of the registered seller on whose behalf the certified service provider is acting, for:*

(1) *The amount of the sales or use tax which the certified service provider fails to collect as a result of that reliance; and*

(2) *Any penalties and interest on that amount.*

(b) *If a registered seller who elects to use a certified automated system pursuant to subsection 3 of NRS 360B.200 fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reliance on the certification of the Department pursuant to subsection 1 regarding the certified automated system used by that registered seller, waive any liability of the registered seller for:*

(1) *The amount of the sales or use tax which the registered seller fails to collect as a result of that reliance; and*

(2) *Any penalties and interest on that amount.*

3. *Notify a certified service provider or a registered seller who elects to use a certified automated system pursuant to subsection 3 of NRS 360B.200 if the Department determines that the taxability of any item or transaction is being incorrectly classified by the certified automated system used by the certified service provider or registered seller. The provisions of subsection 2 do not require the waiver of any liability for the incorrect classification of an item or transaction regarding which notice was provided to the certified service provider or registered seller pursuant to this subsection if the incorrect classification occurs more than 10 days after the receipt of that notice.*

Sec. 4. NRS 360B.030 is hereby amended to read as follows:

360B.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 360B.040 to 360B.100, inclusive, and section 2 of this act have the meanings ascribed to them in those sections.

Sec. 5. NRS 360B.050 is hereby amended to read as follows:

360B.050 "Certified automated system" means software certified ~~jointly by the states that are signatories~~ pursuant to the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state and maintain a record of the transaction.

Sec. 6. NRS 360B.060 is hereby amended to read as follows:

360B.060 "Certified service provider" means an agent certified ~~jointly by the states that are signatories~~ pursuant to the Agreement to perform all of a seller's sales and use tax functions ~~[-]~~, other than the seller's obligation to remit the taxes on its own purchases.

Sec. 7. NRS 360B.090 is hereby amended to read as follows:

360B.090 "State" means any state of the United States, ~~and~~ the District of Columbia ~~[-]~~ and the Commonwealth of Puerto Rico.

Sec. 8. NRS 360B.110 is hereby amended to read as follows:

360B.110 The Nevada Tax Commission shall:

1. Except as otherwise provided in NRS 360B.120, enter into the Agreement.

2. Act jointly with other states that are members of the Agreement to establish standards for:

- (a) Certification of a certified service provider;
- (b) A certified automated system; and
- (c) Performance of multistate sellers. ~~[-; and~~

~~(d) An address based system for determining the applicable sales and use taxes.~~]

3. Take all other actions reasonably required to implement the provisions of this chapter and the provisions of the Agreement, including, without limitation, the:

(a) Adoption of regulations to carry out the provisions of this chapter and the provisions of the Agreement; and

(b) Procurement, jointly with other member states, of goods and services.

4. Represent, or have its designee represent, the State of Nevada before the other states that are signatories to the Agreement.

5. Designate not more than four delegates, who may be members of the Commission, to represent the State of Nevada for the purposes of reviewing or amending the Agreement.

Sec. 9. NRS 360B.200 is hereby amended to read as follows:

360B.200 1. The Department shall, in cooperation with any other states that are members of the Agreement, establish and maintain a central, electronic registration system that allows a seller to register to collect and remit the sales and use taxes imposed in this State and in the other states that are members of the Agreement.

2. A seller who registers pursuant to this section agrees to collect and remit sales and use taxes in accordance with the provisions of this chapter, the regulations of the Department and the applicable law of each state that is a member of the Agreement, including any state that becomes a member of the Agreement after the registration of the seller pursuant to this section. The cancellation or revocation of the registration of a seller pursuant to this section, the withdrawal of a state from the Agreement or the revocation of the Agreement does not relieve a seller from liability pursuant to this subsection to remit any taxes previously or subsequently collected on behalf of a state.

3. When registering pursuant to this section, a seller may:

(a) Elect to use a certified service provider as its agent to perform all the functions of the seller relating to sales and use taxes, other than the obligation of the seller to remit the taxes on its own purchases;

(b) Elect to use a certified automated system to calculate the amount of sales or use taxes due on its sales transactions;

(c) Under such conditions as the Department deems appropriate in accordance with the Agreement, elect to use its own proprietary automated system to calculate the amount of sales or use taxes due on its sales transactions; or

(d) Elect to use any other method authorized by the Department for performing the functions of the seller relating to sales and use taxes.

4. A seller who registers pursuant to this section agrees to submit its sales and use tax returns, and to remit any sales and use taxes due, to the Department at such times and in such a manner and format as the Department prescribes by regulation. Those regulations must:

(a) Require from each seller who registers pursuant to this section:

(1) Only one tax return for each taxing period for all the sales and use taxes collected on behalf of this State and each local government in this State; and

(2) Only one remittance of taxes for each tax return, except that the Department may require additional remittances of taxes if ~~[-~~

~~(I) The seller collects] the seller:~~

~~(I) Collects more than \$30,000 in sales and use taxes on behalf of this State and the local governments in this State during the preceding calendar year;~~

~~(II) [The] Is allowed to determine the amount of [the] any additional remittance [is determined] by a method of calculation instead of by the actual amount collected; and~~

~~(III) [The seller is] Is not required to file any tax returns in addition to those otherwise required in accordance with this subsection.~~

(b) Allow any seller who registers pursuant to this section and makes an election pursuant to paragraph (a), (b) or (c) of subsection 3 to submit tax returns in a simplified format that does not include any more data fields than are permitted in accordance with the Agreement.

(c) Allow any seller who registers pursuant to this section, does not maintain a place of business in this State and has not made an election pursuant to paragraph (a), (b) or (c) of subsection 3, to file tax returns at a frequency that does not exceed once per year unless the seller accumulates more than \$1,000 in the collection of sales and use taxes on behalf of this State and the local governments in this State.

(d) Provide an alternative method for a seller who registers pursuant to this section to make tax payments the same day as the seller intends if an electronic transfer of money fails.

(e) Require any data that accompanies the remittance of a tax payment by or on behalf of a seller who registers pursuant to this section to be formatted using uniform codes for the type of tax and payment in accordance with the Agreement.

5. The registration of a seller and the collection and remission of sales and use taxes pursuant to this section may not be considered as a factor in determining whether a seller has a nexus with this State for the purposes of determining his liability to pay any tax imposed by this State.

Sec. 10. NRS 360B.230 is hereby amended to read as follows:

360B.230 1. The Department shall post on a website or other Internet site that is operated or administered by or on behalf of the Department ~~[-], in any format which may be required by the Agreement:~~

(a) The rates of sales and use taxes for this State and for each local government *and Indian reservation or Indian colony* in this State that imposes such taxes. ~~[The Department shall identify this State and each local government using the Federal Information Processing Standards developed by the National Institute of Standards and Technology.]~~

(b) Any change in those rates.

(c) Any amendments to the statutory provisions and administrative regulations of this State governing the registration of sellers and the collection of sales and use taxes.

(d) Any change in the boundaries of local governments in this State that impose sales and use taxes.

(e) The list maintained pursuant to NRS 360B.240.

(f) *A matrix for determining the taxability of products in this State and any change in the taxability of a product listed in that matrix.*

(g) Any other information the Department deems appropriate.

2. The Department shall make a reasonable effort to provide sellers with as much advance notice as possible of any changes or amendments required to be posted pursuant to subsection 1 and of any other changes in the information posted pursuant to subsection 1. Except as otherwise provided in NRS 360B.250, the failure of the Department to provide such notice and the failure of a seller to receive such notice does not affect the obligation of the seller to collect and remit any applicable sales and use taxes.

Sec. 11. NRS 360B.240 is hereby amended to read as follows:

360B.240 1. The Department shall maintain a list that denotes for each five-digit and nine-digit zip code in this State the combined rates of sales taxes and the combined rates of use taxes imposed in the area of that zip code, and the applicable taxing jurisdictions ~~{-}~~ , *including, without limitation, any pertinent Indian reservation or Indian colony.* If the combined rate of all the sales taxes or use taxes respectively imposed within the area of a zip code is not the same for the entire area of the zip code, the Department shall denote in the list the lowest combined tax rates for the entire zip code.

2. If a street address does not have a nine-digit zip code or if a registered seller *or certified service provider* is unable to determine the nine-digit zip code ~~{of a purchaser}~~ *applicable to a purchase* after exercising due diligence to determine that information, that seller *or certified service provider* may, except as otherwise provided in subsection 3, apply the rate denoted for the five-digit zip code in the list maintained pursuant to this section. For the purposes of this subsection, there is a rebuttable presumption that a registered seller *or certified service provider* has exercised due diligence if the seller *or certified service provider* has attempted to determine the nine-digit zip code ~~{of a purchaser}~~ *applicable to a purchase* by using software approved by the Department which makes that determination from the street address and five-digit zip code ~~{of the purchaser}~~ *applicable to the purchase.*

3. The list maintained pursuant to this section does not apply to and must not be used for any transaction regarding which a purchased product is received by the purchaser at the business location of the seller.

Sec. 12. NRS 360B.250 is hereby amended to read as follows:

360B.250 The Department shall ~~{waive any liability of}~~ :

1. ~~If a registered seller {and a certified service provider acting on behalf of a registered seller who} fails to collect the correct amount of any sales or~~

use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230 or his compliance with subsection 2 of NRS 360B.240, [collects the incorrect amount of any sales or use tax imposed in this State,] waive any liability of the registered seller for:

- ~~{1.}~~ (a) The amount of the sales or use tax which the registered seller ~~[and certified service provider fail]~~ fails to collect as a result of that reliance; and
- ~~{2.}~~ (b) Any penalties and interest on that amount.

2. If a certified service provider acting on behalf of a registered seller fails to collect the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230 or his compliance with subsection 2 of NRS 360B.240, waive any liability of the certified service provider, and of the registered seller on whose behalf the certified service provider is acting, for:

- (a) The amount of the sales or use tax which the certified service provider fails to collect as a result of that reliance; and*
- (b) Any penalties and interest on that amount.*

3. Waive any liability of a purchaser for any sum for which the liability of a registered seller or certified service provider is required to be waived pursuant to subsection 1 or 2 with regard to a transaction involving that purchaser.

4. If a purchaser fails to pay the correct amount of any sales or use tax imposed in this State as a result of his reasonable reliance on the information posted pursuant to NRS 360B.230, waive any liability of the purchaser for:

- (a) The amount of the sales or use tax which the purchaser fails to pay as a result of that reliance; and*
- (b) Any penalties and interest on that amount.*

Sec. 13. NRS 360B.260 is hereby amended to read as follows:

360B.260 1. A purchaser may purchase tangible personal property without paying to the seller at the time of purchase the sales and use taxes that are due thereon if:

- (a) The seller does not maintain a place of business in this State; and
- (b) The purchaser has obtained a direct pay permit pursuant to the provisions of this section.

2. A purchaser who wishes to obtain a direct pay permit must file with the Department an application for such a permit that:

- (a) Is on a form prescribed by the Department; and
- (b) Sets forth such information as is required by the Department.

3. The application must be signed by:

- (a) The owner if he is a natural person;
- (b) A member or partner if the seller is an association or partnership; or
- (c) An executive officer or some other person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

4. Any purchaser who obtains a direct pay permit pursuant to this section shall:

(a) Determine the amount of sales and use taxes that are due and payable to this State, ~~for~~ a local government of this State *or an Indian reservation or Indian colony in this State* upon the purchase of tangible personal property from such a seller; and

(b) Report and pay those taxes to the appropriate authority.

~~{5. If a purchaser who has obtained a direct pay permit purchases tangible personal property that will be available for use digitally or electronically in more than one jurisdiction, he may, to determine the amount of tax that is due to this State or to a local government of this State, use any reasonable, consistent and uniform method to apportion the use of the property among the various jurisdictions in which it will be used that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.}~~

Sec. 14. NRS 360B.290 is hereby amended to read as follows:

360B.290 Any invoice, billing or other document given to a purchaser that indicates the sales price for which tangible personal property is sold must state separately any amount received by the seller for:

1. Any installation charges for the property;

2. ~~{The value of any exempt property given to the purchaser if the exempt property and any taxable property are sold as a single product or piece of merchandise;~~

~~3.}~~ Any credit for any trade-in which is specifically exempted from the sales price of the property pursuant to chapter 372 or 374 of NRS;

~~{4.}~~ 3. Any interest, financing and carrying charges from credit extended on the sale; and

~~{5.}~~ 4. Any taxes legally imposed directly on the consumer.

Sec. 15. NRS 360B.445 is hereby amended to read as follows:

360B.445 "Food" and "food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value, except alcoholic beverages, *dietary supplements* and tobacco.

Sec. 16. NRS 360B.460 is hereby amended to read as follows:

360B.460 "Prepared food" means:

1. Food sold in a heated state or heated by the seller;

2. Two or more food ingredients mixed or combined by the seller for sale as a single item, unless the food ingredients:

(a) Are only cut, repackaged or pasteurized by the seller; or

(b) Contain any raw eggs, fish, meat or poultry, or other such raw animal foods ~~{, for which}~~ *requiring* cooking by the consumer ~~{is}~~ *to prevent food-borne illnesses, as recommended pursuant to the Food Code published by the Food and Drug Administration of the United States Department of Health and Human Services; and*

3. Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins or straws. For the purposes of this ~~paragraph~~ subsection, "plates" does not include any containers or packaging used to transport food.

Sec. 17. NRS 360B.480 is hereby amended to read as follows:

360B.480 1. "Sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property is sold, leased or rented, valued in money, whether received in money or otherwise, and without any deduction for:

- (a) The seller's cost of the property sold;
- (b) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- (c) Any charges by the seller for any services necessary to complete the sale, including any delivery charges and excluding any installation charges which are stated separately pursuant to NRS 360B.290; and
- (d) Except as otherwise provided in subsection 2, any credit for any trade-in.

2. The term does not include:

- (a) Any installation charges which are stated separately pursuant to NRS 360B.290;
- (b) ~~{The value of any exempt personal property given to the purchaser if:~~
 - ~~(1) The exempt property and any taxable property are sold as a single product or piece of merchandise; and~~
 - ~~(2) The value of the exempt property is stated separately pursuant to NRS 360B.290;~~

~~(c)~~ Any credit for any trade-in which is:

- (1) Specifically exempted from the sales price pursuant to chapter 372 or 374 of NRS; and
- (2) Stated separately pursuant to NRS 360B.290;

~~{(d)}~~ (c) Any discounts, including those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by a seller and taken by the purchaser on a sale;

~~{(e)}~~ (d) Any interest, financing and carrying charges from credit extended on the sale of personal property, if stated separately pursuant to NRS 360B.290; and

~~{(f)}~~ (e) Any taxes legally imposed directly on the consumer which are stated separately pursuant to NRS 360B.290.

3. *The term includes consideration received by a seller from a third party if:*

(a) *The seller actually receives consideration from a person other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;*

(b) *The seller has an obligation to pass the price reduction or discount through to the purchaser;*

(c) *The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and*

(d) *Any of the following criteria is satisfied:*

(1) *The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount, and the coupon, certificate or other documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or other documentation is presented.*

(2) *The purchaser identifies himself to the seller as a member of a group or organization entitled to a price reduction or discount. For the purposes of this subparagraph, a preferred customer card that is available to any patron does not constitute membership in such a group.*

(3) *The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.*

Sec. 18. NRS 372.125 is hereby amended to read as follows:

372.125 1. Every person desiring to engage in or conduct business as a seller within this State must ~~register~~ :

(a) *Register* with the Department pursuant to NRS 360B.200 ; or ~~file~~

(b) *File* with the Department an application for a permit for each place of business.

2. Every application for a permit must:

(a) Be made upon a form prescribed by the Department.

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business.

(c) Set forth *any* other information which the Department may require.

~~3. The application must be~~

(d) *Be signed by:*

~~(a)~~ (1) The owner if he is a natural person;

~~(b)~~ (2) A member or partner if the seller is an association or partnership;

or

~~(c)~~ (3) An executive officer or some person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

Sec. 19. NRS 372.130 is hereby amended to read as follows:

372.130 At the time of making an application ~~for a permit pursuant to NRS 372.125~~, the applicant must pay to the Department a ~~permit~~ fee of \$5 for each permit.

Sec. 20. NRS 372.135 is hereby amended to read as follows:

372.135 1. Except as otherwise provided in NRS 360.205 and 372.145, after compliance with NRS 372.125, 372.130 and 372.510 by ~~the applicant,~~ *an applicant for a permit*, the Department shall:

(a) Grant and issue to ~~each~~ *the applicant* a separate permit for each place of business within the State.

(b) Provide the applicant with a full, written explanation of the liability of the applicant for the collection and payment of the taxes imposed by this chapter. The explanation required by this paragraph:

(1) Must include the procedures for the collection and payment of the taxes that are specifically applicable to the type of business conducted by the applicant, including, without limitation and when appropriate:

(I) An explanation of the circumstances under which a service provided by the applicant is taxable;

(II) The procedures for administering exemptions; and

(III) The circumstances under which charges for freight are taxable.

(2) Is in addition to, and not in lieu of, the instructions and information required to be provided by NRS 360.2925.

2. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated on it. It must at all times be conspicuously displayed at the place for which it is issued.

Sec. 21. NRS 372.155 is hereby amended to read as follows:

372.155 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax, it is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale ~~[-]~~ *and the purchaser:*

(a) *Is engaged in the business of selling tangible personal property;*

(b) *Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and*

(c) *At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

2. *If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:*

(a) *The third-party vendor:*

(1) *Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*

(2) *Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*

(b) *His customer:*

(1) *Is engaged in the business of selling tangible personal property; and*

(2) *Is selling the property in the regular course of business.*

Sec. 22. NRS 372.165 is hereby amended to read as follows:

372.165 ~~[-]~~ A resale certificate must:

~~[(a) Be signed by and bear the name and address of the purchaser.~~

~~(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 372.135.~~

~~(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2. The certificate must be~~

1. Be substantially in such form *and include such information* as the Department may prescribe ~~[]~~; *and*

2. *Unless submitted in electronic form, be signed by the purchaser.*

Sec. 23. NRS 372.170 is hereby amended to read as follows:

372.170 1. If a purchaser who gives a *resale* certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business ~~[, the]~~:

(a) *The use is taxable to the purchaser as of the time the property is first so used by him, and the sales price of the property to him is the measure of the tax. [Only when there is an unsatisfied use tax liability on this basis is the seller liable for sales tax with respect to the sale of the property to the purchaser.]* If the sole use of the property other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his gross receipts the amount of the rental charged rather than the sales price of the property to him.

(b) *The seller is liable for the sales tax with respect to the sale of the property to the purchaser only if:*

(1) *There is an unsatisfied use tax liability pursuant to paragraph (a); and*

(2) *The seller fraudulently failed to collect the tax or solicited the purchaser to provide the resale certificate unlawfully.*

2. *As used in this section, "seller" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a seller who is registered pursuant to NRS 360B.200.*

Sec. 24. NRS 372.225 is hereby amended to read as follows:

372.225 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use or other consumption in this State until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale ~~[]~~ *and the purchaser:*

(a) *Is engaged in the business of selling tangible personal property;*

(b) *Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 372.135; and*

(c) *At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

2. *If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:*

(a) *The third-party vendor:*

(1) *Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*

(2) *Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*

(b) *His customer:*

(1) *Is engaged in the business of selling tangible personal property; and*

(2) *Is selling the property in the regular course of business.*

Sec. 25. NRS 372.235 is hereby amended to read as follows:

372.235 ~~1.~~ A resale certificate must:

~~[(a) Be signed and bear the name and address of the purchaser.~~

~~(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 372.135.~~

~~(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2. The certificate must be]~~

1. *Be substantially in such form and include such information as the Department may prescribe ~~1.~~; and*

2. *Unless submitted in electronic form, be signed by the purchaser.*

Sec. 26. NRS 372.347 is hereby amended to read as follows:

372.347 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such identifying information from the purchaser at the time of sale as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department ~~1.~~ and provide those records to the Department upon request.

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not

apply if the retailer fraudulently fails to collect the tax or solicits a purchaser to participate in an unlawful claim of an exemption.

6. *As used in this section, "retailer" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.*

Sec. 27. NRS 372.7275 is hereby amended to read as follows:

372.7275 In its administration of the use tax imposed by NRS 372.185, the Department shall not consider the storage, use or other consumption in this State of tangible personal property which ~~is~~:

1. ~~Worth \$100 or less; and~~

2. ~~Acquired~~ :

1. *Does not have significant value; and*

2. *Is acquired free of charge at a convention, trade show or other public event.*

Sec. 28. NRS 374.130 is hereby amended to read as follows:

374.130 1. Every person desiring to engage in or conduct business as a seller within a county ~~shall register~~ must:

(a) *Register* with the Department pursuant to NRS 360B.200 ; or ~~file~~

(b) *File* with the Department an application for a permit for each place of business.

2. Every application for a permit must:

(a) Be made upon a form prescribed by the Department.

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his place or places of business.

(c) Set forth such other information as the Department may require.

~~3. The application must be~~

(d) *Be signed by:*

~~(a)~~ (1) The owner if he is a natural person;

~~(b)~~ (2) A member or partner if the seller is an association or partnership;

or

~~(c)~~ (3) An executive officer or some person specifically authorized to sign the application if the seller is a corporation. Written evidence of the signer's authority must be attached to the application.

Sec. 29. NRS 374.135 is hereby amended to read as follows:

374.135 At the time of making an application ~~for a permit pursuant to NRS 374.130~~, the applicant shall pay to the Department a ~~permit~~ fee of \$5 for each permit.

Sec. 30. NRS 374.140 is hereby amended to read as follows:

374.140 1. Except as otherwise provided in NRS 360.205 and 374.150, after compliance with NRS 374.130, 374.135 and 374.515 by ~~the applicant,~~ *an applicant for a permit*, the Department shall:

(a) Grant and issue to ~~each~~ *the applicant* a separate permit for each place of business within the county.

(b) Provide the applicant with a full, written explanation of the liability of the applicant for the collection and payment of the taxes imposed by this chapter. The explanation required by this paragraph:

(1) Must include the procedures for the collection and payment of the taxes that are specifically applicable to the type of business conducted by the applicant, including, without limitation and when appropriate:

(I) An explanation of the circumstances under which a service provided by the applicant is taxable;

(II) The procedures for administering exemptions; and

(III) The circumstances under which charges for freight are taxable.

(2) Is in addition to, and not in lieu of, the instructions and information required to be provided by NRS 360.2925.

2. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. A permit must at all times be conspicuously displayed at the place for which it is issued.

Sec. 31. NRS 374.160 is hereby amended to read as follows:

374.160 1. For the purpose of the proper administration of this chapter and to prevent evasion of the sales tax it ~~shall be~~ is presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of tangible personal property is not a sale at retail is upon the person who makes the sale unless he takes *in good faith* from the purchaser a certificate to the effect that the property is purchased for resale ~~and the purchaser:~~

(a) *Is engaged in the business of selling tangible personal property;*

(b) *Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and*

(c) *At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

2. *If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the sale is not a sale at retail if:*

(a) *The third-party vendor:*

(1) *Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*

(2) *Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*

(b) *His customer:*

(1) *Is engaged in the business of selling tangible personal property; and*

(2) *Is selling the property in the regular course of business.*

Sec. 32. NRS 374.170 is hereby amended to read as follows:

374.170 ~~1.~~ A resale certificate must:

~~(a) Be signed by and bear the name and address of the purchaser.~~

~~(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 374.140.~~

~~(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2. The certificate must be~~

1. *Be substantially in such form and include such information as the Department may prescribe* ~~[]~~ ; and

2. *Unless submitted in electronic form, be signed by the purchaser.*

Sec. 33. NRS 374.175 is hereby amended to read as follows:

374.175 1. If a purchaser who gives a *resale* certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business ~~[, the use shall be]~~ :

(a) *The use is taxable to the purchaser as of the time the property is first so used by him, and the sales price of the property to him* ~~[shall be deemed]~~ *is the measure of the tax.* ~~[Only when there is an unsatisfied use tax liability on this basis shall the seller be liable for sales tax with respect to the sale of the property to the purchaser.]~~ If the sole use of the property other than retention, demonstration or display in the regular course of business is the rental of the property while holding it for sale, the purchaser may elect to include in his gross receipts the amount of the rental charged rather than the sales price of the property to him.

(b) *The seller is liable for the sales tax with respect to the sale of the property to the purchaser only if:*

(1) *There is an unsatisfied use tax liability pursuant to paragraph (a); and*

(2) *The seller fraudulently failed to collect the tax or solicited the purchaser to provide the resale certificate unlawfully.*

2. *As used in this section, "seller" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a seller who is registered pursuant to NRS 360B.200.*

Sec. 34. NRS 374.230 is hereby amended to read as follows:

374.230 1. For the purpose of the proper administration of this chapter and to prevent evasion of the use tax and the duty to collect the use tax, it ~~[shall be]~~ *is presumed that tangible personal property sold by any person for delivery in a county is sold for storage, use or other consumption in the county until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes in good faith from the purchaser a certificate to the effect that the property is purchased for resale* ~~[]~~ *and the purchaser:*

(a) *Is engaged in the business of selling tangible personal property;*

(b) *Is registered pursuant to NRS 360B.200 or holds a permit issued pursuant to NRS 374.140; and*

(c) *At the time of purchasing the property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.*

2. *If a sale of tangible personal property is transacted by drop shipment, the third-party vendor is relieved of the burden of proving that the property is sold for storage, use or other consumption in this State if:*

(a) *The third-party vendor:*

(1) *Takes in good faith from his customer a certificate to the effect that the property is purchased for resale; or*

(2) *Obtains any other evidence acceptable to the Department that the property is purchased for resale; and*

(b) *His customer:*

(1) *Is engaged in the business of selling tangible personal property; and*

(2) *Is selling the property in the regular course of business.*

Sec. 35. NRS 374.240 is hereby amended to read as follows:

374.240 ~~{1.}~~ A resale certificate must:

~~{(a) Be signed and bear the name and address of the purchaser.~~

~~{(b) Indicate that the purchaser is registered pursuant to NRS 360B.200 or contain the number of the permit issued to the purchaser pursuant to NRS 374.140.~~

~~{(c) Indicate the general character of the tangible personal property sold by the purchaser in the regular course of business.~~

~~2. The certificate must be:~~

1. *Be substantially in such form and include such information as the Department may prescribe {1.} ; and*

2. *Unless submitted in electronic form, be signed by the purchaser.*

Sec. 36. NRS 374.352 is hereby amended to read as follows:

374.352 1. If a purchaser wishes to claim an exemption from the taxes imposed by this chapter, the retailer shall obtain such identifying information from the purchaser at the time of sale as is required by the Department.

2. The Department shall, to the extent feasible, establish an electronic system for submitting a request for an exemption. A purchaser is not required to provide a signature to claim an exemption if the request is submitted electronically.

3. The Department may establish a system whereby a purchaser who is exempt from the payment of the taxes imposed by this chapter is issued an identification number that can be presented to the retailer at the time of sale.

4. A retailer shall maintain such records of exempt transactions as are required by the Department ~~{1.}~~ *and provide those records to the Department upon request.*

5. Except as otherwise provided in this subsection, a retailer who complies with the provisions of this section is not liable for the payment of any tax imposed by this chapter if the purchaser improperly claims an exemption. If the purchaser improperly claims an exemption, the purchaser is liable for the payment of the tax. The provisions of this subsection do not

apply if the retailer fraudulently fails to collect the tax or solicits a purchaser to participate in an unlawful claim of an exemption.

6. *As used in this section, "retailer" includes a certified service provider, as that term is defined in NRS 360B.060, acting on behalf of a retailer who is registered pursuant to NRS 360B.200.*

Sec. 37. NRS 374.726 is hereby amended to read as follows:

374.726 In its administration of the use tax imposed by NRS 374.190, the Department shall not consider the storage, use or other consumption in a county of tangible personal property which ~~is~~:

~~1. Worth \$100 or less; and~~

~~2. Acquired~~ :

1. *Does not have significant value; and*

2. *Is acquired free of charge at a convention, trade show or other public event.*

Sec. 38. Section 10 of the Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 914, is hereby amended to read as follows:

Sec. 10. An ordinance enacted pursuant to this act must include provisions in substance as follows:

1. A provision imposing a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed in the County, including incorporated cities in the County, at a rate of:

(a) One-quarter of 1 percent if the date on which the tax must first be imposed is on October 1, 2005; and

(b) Up to an additional one-quarter of 1 percent if the date on which the increased rate must first be imposed is on or after October 1, 2009, and if the Legislature first approves the increased rate,
 ↳ the total rate not to exceed one-half of 1 percent.

2. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

3. A provision that an amendment to chapter 374 of NRS enacted after the effective date of the ordinance, not inconsistent with this act, automatically becomes part of the ordinance imposing the tax.

4. A provision that the Board shall contract with the Department, before the effective date of the ordinance, to perform all the functions incident to the administration or operation of the tax in the County.

5. A provision that ~~[exempts from the tax the gross receipts from]~~ *a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed upon the sale of, and the storage, use or other consumption in the County, including incorporated cities in the County, of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property:*

(a) That was entered into on or before the effective date of the tax;
or

(b) For which a binding bid was submitted before that date if the bid was afterward accepted, and pursuant to the terms of the contract or bid, the contract price or bid amount may not be adjusted to reflect the imposition of the tax.

6. A provision that specifies the date on which the tax must first be imposed ~~[,] or on which any change in the rate of tax becomes effective,~~ which must ~~[not be earlier than]~~ be the first day of the ~~[second calendar month following]~~ first calendar quarter that begins at least 120 days after the effective date of the ordinance.

Sec. 39. The Legislature hereby finds and declares that:

1. There has been a rapid increase during recent years in the conduct of interstate commerce through telecommunication and electronic means.

2. Many of the merchants who transact these forms of interstate commerce have been discouraged by the substantial burdens of ascertaining and complying with the extremely diverse and detailed tax laws of each state from making the efforts necessary to collect sales and use taxes on behalf of the states in which they do not maintain a place of business.

3. As a result of the proliferation of these forms of interstate commerce and federal restrictions on the ability of each state to collect sales and use taxes from merchants who do not maintain a place of business in that state, the people of this State are losing millions of dollars in state and local tax revenue.

4. The nonpayment of Nevada sales and use taxes by merchants in other states provides those merchants with an unfair competitive advantage over local merchants who lawfully pay the sales and use taxes due in this State.

5. As a result of the similarity of these circumstances in the various states, considerable efforts are being made to provide more uniformity, simplicity and fairness in the administration and collection of sales and use taxes in this country, including the introduction and consideration of Congressional legislation and the participation by Nevada and many other states in the Streamlined Sales and Use Tax Agreement.

6. Compliance with the Streamlined Sales and Use Tax Agreement and its amendments has and will continue to require amendments to the Nevada Sales and Use Tax Act, and it is anticipated that any Congressional legislation will also necessitate such amendments.

7. The Nevada Sales and Use Tax Act was approved by referendum at the General Election in 1956 and therefore, pursuant to Section 1 of Article 19 of the Constitution of the State of Nevada, may not be "amended, annulled, repealed, set aside, suspended or in any way made inoperative except by the direct vote of the people."

8. Unlike the circumstances in other states where legislatures have the direct authority to amend sales and use tax laws in a timely manner, the period required for the legislative enactment and subsequent voter approval

of any necessary amendments to the Nevada Sales and Use Tax Act has placed the ability of this State to comply with the Streamlined Sales and Use Tax Agreement and any Congressional legislation in serious jeopardy.

9. It would be beneficial to the public welfare for the people of this State by direct vote to authorize the Legislature to enact without any additional voter approval such amendments to the Nevada Sales and Use Tax Act as it determines to be necessary to carry out any Congressional legislation or interstate agreements for the administration, collection or enforcement of sales and use taxes.

Sec. 40. At the General Election on November 4, 2008, a proposal must be submitted to the registered voters of this State to amend the Sales and Use Tax Act, which was enacted by the 47th Session of the Legislature of the State of Nevada and approved by the Governor in 1955, and subsequently approved by the people of this State at the General Election held on November 6, 1956.

Sec. 41. At the time and in the manner provided by law, the Secretary of State shall transmit the proposed act to the several county clerks, and the county clerks shall cause it to be published and posted as provided by law.

Sec. 42. The proclamation and notice to the voters given by the county clerks pursuant to law must be in substantially the following form:

Notice is hereby given that at the General Election on November 4, 2008, a question will appear on the ballot for the adoption or rejection by the registered voters of the State of the following proposed act:

"AN ACT to amend an Act entitled "An Act to provide revenue for the State of Nevada; providing for sales and use taxes; providing for the manner of collection; defining certain terms; providing penalties for violation, and other matters properly relating thereto." "approved March 29, 1955, as amended."

THE PEOPLE OF THE STATE OF NEVADA

DO ENACT AS FOLLOWS:

Section 1. The above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 788, is hereby amended by adding thereto a new section to be designated as section 153.5, immediately following section 153.2, to read as follows:

Sec. 153.5. The people of the State of Nevada hereby authorize the Legislature to enact, without an additional direct vote of the people, legislation that amends, annuls, repeals, sets aside, suspends or otherwise makes inoperative any provision of this Act, being chapter 397, Statutes of Nevada 1955, at page 762, whenever the Legislature determines that such legislation is necessary to carry out any federal statute or regulation or interstate agreement providing for the administration, collection or enforcement of sales and use taxes ~~for~~, unless such legislation would increase the rate of any tax imposed pursuant to this Act.

Sec. 2. Section 61.5 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, as added by chapter 466, Statutes of Nevada 1985, at page 1441, is hereby repealed.

Sec. 3. This act becomes effective on January 1, 2009.

Sec. 43. The ballot page assemblies and the paper ballots to be used in voting on the question must present the question in substantially the following form:

Shall the Sales and Use Tax Act of 1955 be amended to repeal an exemption from the taxes imposed by this Act on the gross receipts from the sale of aircraft and major components of aircraft to scheduled air carriers based in this State, and to authorize the Legislature to amend or repeal any provision of this Act without an additional direct vote of the people whenever necessary to carry out any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes?

Yes ☐ No ☐

Sec. 44. The explanation of the question which must appear on each paper ballot and sample ballot and in every publication and posting of notice of the question must be in substantially the following form:
(Explanation of Question)

The proposed amendment to the Sales and Use Tax Act of 1955 would repeal an exemption from the taxes imposed by this Act for the sale of aircraft and major components of aircraft to a scheduled air carrier which is based in Nevada, and would authorize the Legislature to enact legislation amending or repealing any provision of this Act without obtaining additional voter approval whenever that legislation is necessary to carry out any federal law or interstate agreement for the administration, collection or enforcement of sales and use taxes. The proposed amendment would not authorize any legislation that increases the rate of any tax imposed pursuant to this Act.

Sec. 45. If a majority of the votes cast on the question is yes, the amendment to the Sales and Use Tax Act of 1955 becomes effective on January 1, 2009. If less than a majority of votes cast on the question is yes, the question fails and the amendment to the Sales and Use Tax Act of 1955 does not become effective.

Sec. 46. All general election laws not inconsistent with this act are applicable.

Sec. 47. Any informalities, omissions or defects in the content or making of the publications, proclamations or notices provided for in this act and by the general election laws under which this election is held must be so construed as not to invalidate the adoption of the act by a majority of the registered voters voting on the question if it can be ascertained with reasonable certainty from the official returns transmitted to the office of the Secretary of State whether the proposed amendment was adopted by a majority of those registered voters.

Sec. 48. The amendatory provisions of section 38 of this act do not apply to any ordinance enacted before October 1, 2007.

Sec. 49. 1. NRS 360B.270, 372.160, 372.230, 372.728, 374.165, 374.235 and 374.728 are hereby repealed.

2. NRS 372.726 is hereby repealed.

Sec. 50. 1. This section and sections 1 to 48, inclusive, and subsection 1 of section 49 of this act become effective on October 1, 2007.

2. Subsection 2 of section 49 of this act becomes effective on January 1, 2009, only if the proposal submitted pursuant to sections 40 to 44, inclusive, of this act is approved by the voters at the general election on November 4, 2008.

LEADLINES OF REPEALED SECTIONS OF NRS AND
TEXT OF REPEALED SECTION OF STATUTES OF NEVADA

360B.270 Purchases of tangible personal property that will be used digitally or electronically in multiple jurisdictions.

372.160 Effect of resale certificate.

372.230 Effect of resale certificate.

372.726 Application of exemption for aircraft and major components of aircraft.

372.728 Construction of "retailer maintaining place of business in this State."

374.165 Effect of resale certificate.

374.235 Effect of resale certificate.

374.728 Construction of "retailer maintaining place of business in county."

Section 61.5 of chapter 397, Statutes of Nevada 1955:

Sec. 61.5. There are exempted from the taxes imposed by this act the gross receipts from the sale of aircraft and major components of aircraft, such as engines and other components made for use only in aircraft, to an air carrier which:

1. Holds a certificate to engage in air transportation issued pursuant to 49 U.S.C. § 1371 and is not solely a charter air carrier or a supplemental air carrier as described in Title 49 of the United States Code; and

2. Maintains its central office in Nevada and bases a majority of its aircraft in Nevada.

Senator McGinness moved that the Senate concur in the Assembly amendment to Senate Bill No. 502.

Remarks by Senator McGinness.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 535.

The following Assembly amendment was read:

Amendment No. 744.

"SUMMARY—Revises provisions governing certain educational programs for pupils in public schools. (BDR 34-581)"

"AN ACT relating to education; revising provisions relating to alternative programs for pupils at risk of dropping out of school, programs of distance education and independent study and certain other educational programs; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the boards of trustees of school districts to operate an alternative program for the education of pupils at risk of dropping out of high school, subject to the approval of the State Board of Education. (NRS 388.537) Section 4 of this bill authorizes school districts to operate an alternative program for all grade levels of pupils who are at risk of dropping out of school, subject to the approval of the Superintendent of Public Instruction.

Existing law provides that if a pupil enrolls in a program of distance education, the board of trustees of the school district in which the pupil resides or the governing body of the charter school in which the pupil attends school must enter into an agreement with the provider of the distance education. (NRS 388.854, 388.858) If an agreement is not filed with the Superintendent of Public Instruction for a pupil, the provider of the distance education is not eligible to receive the state apportionment of money for that pupil. (NRS 387.123, 387.124) Sections 8 and 9 of this bill revise the contents of the agreement and eliminate the requirement that the agreement be filed with the Superintendent. Sections 2 and 3 of this bill eliminate the restriction on the eligibility of a provider of the distance education to receive payment for a pupil if an agreement is not filed with the Superintendent.

Existing law provides that a pupil may enroll in a program of independent study if the school district in which the pupil is enrolled offers the program and if the pupil is enrolled in high school or is suspended or expelled from a public school. (NRS 389.155) Section 11 of this bill expands the eligibility for independent study to include all pupils who are enrolled in public schools, pupils who are enrolled in an alternative program and pupils who are enrolled in a program designed to meet the requirements for an adult standard diploma.

Existing law provides that if a pupil enrolled in high school successfully completes a college course, the pupil must be granted credit toward graduation from high school. (NRS 389.160) Section 12 of this bill provides that if a pupil enrolled in a program designed to meet the requirements for an adult standard diploma successfully completes a college course, the pupil must be granted credit towards that diploma.

Section 15 of this bill eliminates the requirement that a provider of a program of distance education submit to the Department of Education and the Legislative Bureau of Educational Accountability and Program Evaluation an annual report of the program. (NRS 388.870)

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

Section 1. NRS 385.3612 is hereby amended to read as follows:

385.3612 1. The State Board shall adopt regulations that prescribe, consistent with 20 U.S.C. §§ 6301 et seq. and the regulations adopted pursuant thereto, the manner in which pupils enrolled in:

(a) A program of distance education pursuant to NRS 388.820 to 388.874, inclusive;

(b) An alternative program for the education of pupils at risk of dropping out of ~~[high school]~~ *school pursuant to NRS 388.537*; or

(c) A program of education that:

(1) Primarily serves pupils with disabilities; or

(2) Is operated within a:

(I) Local, regional or state facility for the detention of children;

(II) Juvenile forestry camp;

(III) Child welfare agency; or

(IV) Correctional institution,

↪ will be included within the statewide system of accountability set forth in NRS 385.3455 to 385.391, inclusive.

2. The regulations adopted pursuant to subsection 1 must also set forth the manner in which:

(a) The progress of pupils enrolled in a program of distance education, an alternative program or a program of education described in subsection 1 will be accounted for within the statewide system of accountability; and

(b) The results of pupils enrolled in a program of distance education, an alternative program or a program of education described in subsection 1 on the examinations administered pursuant to NRS 389.015 and 389.550 will be reported.

Sec. 2. NRS 387.123 is hereby amended to read as follows:

387.123 1. The count of pupils for apportionment purposes includes all pupils who are enrolled in programs of instruction of the school district, including, without limitation, a program of distance education provided by the school district, or pupils who reside in the county in which the school district is located and are enrolled in any charter school, including, without limitation, a program of distance education provided by a charter school, for:

(a) Pupils in the kindergarten department.

(b) Pupils in grades 1 to 12, inclusive.

(c) Pupils not included under paragraph (a) or (b) who are receiving special education pursuant to the provisions of NRS 388.440 to 388.520, inclusive.

(d) Pupils who reside in the county and are enrolled part time in a program of distance education ~~[if an agreement is filed with the Superintendent of Public Instruction]~~ *provided pursuant to NRS [388.854 or 388.858, as applicable]* 388.820 to 388.874, inclusive.

(e) Children detained in facilities for the detention of children, alternative programs and juvenile forestry camps receiving instruction pursuant to the provisions of NRS 388.550, 388.560 and 388.570.

(f) Pupils who are enrolled in classes pursuant to subsection 4 of NRS 386.560 and pupils who are enrolled in classes pursuant to subsection 5 of NRS 386.580.

(g) Pupils who are enrolled in classes pursuant to subsection 3 of NRS 392.070.

(h) Pupils who are enrolled in classes and taking courses necessary to receive a high school diploma, excluding those pupils who are included in paragraphs (d), (f) and (g).

2. The State Board shall establish uniform regulations for counting enrollment and calculating the average daily attendance of pupils. In establishing such regulations for the public schools, the State Board:

(a) Shall divide the school year into 10 school months, each containing 20 or fewer school days, or its equivalent for those public schools operating under an alternative schedule authorized pursuant to NRS 388.090.

(b) May divide the pupils in grades 1 to 12, inclusive, into categories composed respectively of those enrolled in elementary schools and those enrolled in secondary schools.

(c) Shall prohibit the counting of any pupil specified in subsection 1 more than once.

3. Except as otherwise provided in subsection 4 and NRS 388.700, the State Board shall establish by regulation the maximum pupil-teacher ratio in each grade, and for each subject matter wherever different subjects are taught in separate classes, for each school district of this State which is consistent with:

(a) The maintenance of an acceptable standard of instruction;

(b) The conditions prevailing in the school district with respect to the number and distribution of pupils in each grade; and

(c) Methods of instruction used, which may include educational television, team teaching or new teaching systems or techniques.

➡ If the Superintendent of Public Instruction finds that any school district is maintaining one or more classes whose pupil-teacher ratio exceeds the applicable maximum, and unless he finds that the board of trustees of the school district has made every reasonable effort in good faith to comply with the applicable standard, he shall, with the approval of the State Board, reduce the count of pupils for apportionment purposes by the percentage which the number of pupils attending those classes is of the total number of pupils in the district, and the State Board may direct him to withhold the quarterly apportionment entirely.

4. The provisions of subsection 3 do not apply to a charter school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive.

Sec. 3. NRS 387.124 is hereby amended to read as follows:

387.124 Except as otherwise provided in this section and NRS 387.528:

1. On or before August 1, November 1, February 1 and May 1 of each year, the Superintendent of Public Instruction shall apportion the State Distributive School Account in the State General Fund among the several county school districts and charter schools in amounts approximating one-fourth of their respective yearly apportionments less any amount set aside as a reserve. The apportionment to a school district, computed on a yearly basis, equals the difference between the basic support and the local funds available pursuant to NRS 387.1235, minus all the funds attributable to pupils who reside in the county but attend a charter school and all the funds attributable to pupils who reside in the county and are enrolled full time or part time in a program of distance education provided by another school district or a charter school. No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support. ~~[If an agreement is not filed for a pupil who is enrolled in a program of distance education as required by NRS 388.854, the Superintendent of Public Instruction shall not apportion money for that pupil to the board of trustees of the school district in which the pupil resides, or the board of trustees or governing body that provides the program of distance education.]~~

2. Except as otherwise provided in subsection 3, the apportionment to a charter school, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides minus all the funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part time in a program of distance education provided by a school district or another charter school. If the apportionment per pupil to a charter school is more than the amount to be apportioned to the school district in which a pupil who is enrolled in the charter school resides, the school district in which the pupil resides shall pay the difference directly to the charter school.

3. The apportionment to a charter school that is sponsored by the State Board, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the pupil resides plus the amount of local funds available per pupil pursuant to NRS 387.1235 and all other funds available for public schools in the county in which the pupil resides, minus all funds attributable to pupils who are enrolled in the charter school but are concurrently enrolled part time in a program of distance education provided by a school district or another charter school.

4. In addition to the apportionments made pursuant to this section, an apportionment must be made to a school district or charter school that provides a program of distance education for each pupil who is enrolled part time in the program. ~~[If an agreement is filed for that pupil pursuant to NRS 388.854 or 388.858, as applicable.]~~ The amount of the apportionment must be equal to the percentage of the total time services are provided to the

pupil through the program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides.

5. The governing body of a charter school may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the charter school, an apportionment 30 days before the apportionment is required to be made pursuant to subsection 1. Upon receipt of such a request, the Superintendent of Public Instruction may make the apportionment 30 days before the apportionment is required to be made. A charter school may receive all four apportionments in advance in its first year of operation.

6. The Superintendent of Public Instruction shall apportion, on or before August 1 of each year, the money designated as the "Nutrition State Match" pursuant to NRS 387.105 to those school districts that participate in the National School Lunch Program, 42 U.S.C. §§ 1751 et seq. The apportionment to a school district must be directly related to the district's reimbursements for the Program as compared with the total amount of reimbursements for all school districts in this State that participate in the Program.

7. If the State Controller finds that such an action is needed to maintain the balance in the State General Fund at a level sufficient to pay the other appropriations from it, he may pay out the apportionments monthly, each approximately one-twelfth of the yearly apportionment less any amount set aside as a reserve. If such action is needed, the State Controller shall submit a report to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau documenting reasons for the action.

Sec. 4. NRS 388.537 is hereby amended to read as follows:

388.537 1. The board of trustees of a school district may, subject to the approval of the ~~[State Board,]~~ *Superintendent of Public Instruction*, operate an alternative program for the education of pupils at risk of dropping out of ~~[high]~~ school, including pupils who ~~[-~~

~~(a) Because of extenuating circumstances, such as their being pregnant, parents, chronically ill or self supporting, are not able to attend the classes of instruction regularly provided in high school;~~

~~(b) Are deficient in the amount of academic credit necessary to graduate with pupils their same age;~~

~~(c) Are chronically absent from high school; or~~

~~(d) Require instruction on a more personal basis than that regularly provided in high school.] are enrolled in kindergarten or grades 1 to 12, inclusive.~~

2. *The board of trustees of a school district may submit to the Department, in the form prescribed by the Department, a plan to operate an alternative program.*

3. *The Superintendent of Public Instruction shall review each plan to operate an alternative program submitted to the Department and approve or deny the plan. Approval by the Superintendent constitutes approval of each component of the plan for the alternative program.*

4. *If a plan for an alternative program is denied by the Superintendent of Public Instruction, the board of trustees of a school district may appeal the decision of the Superintendent to the State Board. The State Board may approve or deny the plan for the alternative program upon appeal.*

5. An alternative program may include:

(a) A shorter school day ~~[-and]~~ or an opportunity for pupils to attend a longer school day ~~[-]~~ than that regularly provided in ~~[high school.]~~ the school district. The alternative program must provide for a number of minutes of instruction that is equal to or greater than that which would be provided under a program consisting of 180 school days.

(b) An opportunity for pupils to attend classes of instruction during any part of the calendar year.

(c) A comprehensive curriculum that includes elective classes of instruction and career and technical education.

(d) An opportunity for pupils to obtain academic credit through experience gained at work or while engaged in other activities.

(e) An opportunity for pupils to satisfy either:

(1) The requirements for a regular high school diploma; or

(2) The requirements for ~~[a high school diploma for adults.]~~ *an adult standard diploma.*

(f) The provision of child care for the children of pupils.

(g) The transportation of pupils to and from classes of instruction.

(h) The ~~[temporary]~~ placement of pupils for independent study ~~[-if there are extenuating circumstances which prevent those pupils from attending the alternative program on a daily basis.~~

~~3.]~~ *pursuant to NRS 389.155, if the board of trustees of the school district determines that the pupil would benefit from such placement.*

6. The board of trustees of a school district may operate an alternative program pursuant to this section through a program of distance education pursuant to NRS 388.820 to 388.874, inclusive.

Sec. 5. NRS 388.826 is hereby amended to read as follows:

388.826 "Distance education" means instruction which is delivered by means of video, computer, television, ~~[correspondence,]~~ or the Internet or other electronic means of communication, or any combination thereof, in such a manner that the person supervising or providing the instruction and the pupil receiving the instruction are separated geographically for a majority of the time during which the instruction is delivered.

Sec. 6. NRS 388.829 is hereby amended to read as follows:

388.829 "Program of distance education" means a program comprised of one or more courses of distance education that is designed for pupils who ~~[-~~

~~1.—Are participating in a program for pupils who are at risk of dropping out of high school pursuant to NRS 388.537.~~

~~2.—Are participating in a program of independent study pursuant to NRS 389.155.~~

~~3.—Are enrolled in a public school that does not offer advanced or specialized courses.~~

~~4.—Have a physical or mental condition that would otherwise require an excuse from compulsory attendance pursuant to NRS 392.050.~~

~~5.—Would otherwise be excused from compulsory attendance pursuant to NRS 392.080.~~

~~6.—Are otherwise prohibited from attending public school pursuant to NRS 392.264, 392.4642 to 392.4648, inclusive, 392.466, 392.467 or 392.4675.~~

~~7.—Are otherwise permitted to enroll in a program of distance education provided by the board of trustees of a school district if the board of trustees determines that special circumstances warrant enrollment for the pupil.~~

~~8.—Are otherwise permitted to enroll in a program of distance education provided by the governing body of a charter school if the governing body of the charter school determines that special circumstances warrant enrollment for the pupil.] meet the criteria for enrollment in a program of distance education prescribed in NRS 388.850.~~

Sec. 7. NRS 388.850 is hereby amended to read as follows:

388.850 1. A pupil may enroll in a program of distance education only if the pupil satisfies the requirements of any other applicable statute and the pupil:

(a) Is participating in a program for pupils at risk of dropping out of ~~[high]~~ school pursuant to NRS 388.537;

(b) Is participating in a program of independent study pursuant to NRS 389.155;

(c) Is enrolled in a public school that does not offer certain advanced or specialized courses that the pupil desires to attend;

(d) Has a physical or mental condition that would otherwise require an excuse from compulsory attendance pursuant to NRS 392.050;

(e) Would otherwise be excused from compulsory attendance pursuant to NRS 392.080;

(f) Is otherwise prohibited from attending public school pursuant to NRS 392.264, 392.4642 to 392.4648, inclusive, 392.466, 392.467 or 392.4675;

(g) Is otherwise permitted to enroll in a program of distance education provided by the board of trustees of a school district if the board of trustees determines that the ~~[circumstances warrant enrollment for the pupil.]~~ *pupil will benefit from the program*; or

(h) Is otherwise permitted to enroll in a program of distance education provided by the governing body of a charter school if the governing body of

the charter school determines that the ~~[circumstances warrant enrollment for the pupil.]~~ *pupil will benefit from the program.*

2. In addition to the eligibility for enrollment set forth in subsection 1, a pupil must satisfy the qualifications and conditions for enrollment in a program of distance education adopted by the State Board pursuant to NRS 388.874.

3. A child who is exempt from compulsory attendance and receiving equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070 is not eligible to enroll in or otherwise attend a program of distance education, regardless of whether he is otherwise eligible for enrollment pursuant to subsection 1.

4. If a pupil who is prohibited from attending public school pursuant to NRS 392.264 enrolls in a program of distance education, the enrollment and attendance of that pupil must comply with all requirements of NRS 62F.100 to ~~[62F.140.]~~ *62F.150*, inclusive, and 392.251 to 392.271, inclusive.

5. If a pupil is eligible for enrollment in a program of distance education pursuant to paragraph (c) of subsection 1, he may enroll in the program of distance education only to take those advanced or specialized courses that are not offered at the public school he otherwise attends.

Sec. 8. NRS 388.854 is hereby amended to read as follows:

388.854 1. Except as otherwise provided in this subsection, before a pupil may enroll full time or part time in a program of distance education that is provided by a school district other than the school district in which the pupil resides, the pupil must obtain the written permission of the board of trustees of the school district in which the pupil resides. Before a pupil who is enrolled in a public school of a school district may enroll part time in a program of distance education that is provided by a charter school, the pupil must obtain the written permission of the board of trustees of the school district in which the pupil resides. A pupil who enrolls full time in a program of distance education that is provided by a charter school is not required to obtain the approval of the board of trustees of the school district in which the pupil resides.

2. If the board of trustees of a school district grants permission pursuant to subsection 1, the board of trustees shall enter into a written agreement with the board of trustees or governing body, as applicable, that provides the program of distance education. A separate agreement must be prepared for each year that a pupil enrolls in a program of distance education. ~~[The written agreement must:~~

~~(a) Contain a statement prepared by the board of trustees of the school district in which the pupil resides indicating that the board of trustees understands that the Superintendent of Public Instruction will make appropriate adjustments in the apportionments to the school district pursuant to NRS 387.124 to account for the pupil's enrollment in the program of distance education;~~

~~(b) If the pupil plans to enroll part time in the program of distance education, contain a statement prepared by the board of trustees of the school district in which the pupil resides and the board of trustees or governing body that provides the program of distance education setting forth the percentage of the total time services will be provided to the pupil through the program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides;~~

~~(c) Be signed by the board of trustees of the school district in which the pupil resides and the board of trustees or governing body that provides the program of distance education; and~~

~~(d) Include any other information required by the State Board by regulation.~~

~~3. On or before the last day of the first school month of each school year or March 1 of each school year, as applicable for the semester of enrollment, a written agreement must be filed with the Superintendent of Public Instruction for each pupil who is enrolled full time in a program of distance education provided by a school district other than the school district in which the pupil resides. On or before the last day of the first school month of each school year or March 1 of each school year, as applicable for the semester of enrollment, a written agreement must be filed with the Superintendent of Public Instruction for each pupil who is enrolled in a public school of the school district and who is enrolled part time in a program of distance education provided by a charter school. If an agreement is not filed for a pupil who is enrolled in a program of distance education as required by this section, the Superintendent of Public Instruction shall not apportion money for that pupil to the board of trustees of the school district in which the pupil resides, or the board of trustees or governing body that provides the program of distance education.]~~

Sec. 9. NRS 388.858 is hereby amended to read as follows:

388.858 1. If a pupil is enrolled in a charter school, he may enroll full time in a program of distance education only if the charter school in which he is enrolled provides the program of distance education.

2. Before a pupil who is enrolled in a charter school may enroll part time in a program of distance education that is provided by a school district or another charter school, the pupil must obtain the written permission of the governing body of the charter school in which the pupil is enrolled.

3. If the governing body of a charter school grants permission pursuant to subsection 2, the governing body shall enter into a written agreement with the board of trustees or governing body, as applicable, that provides the program of distance education. A separate agreement must be prepared for each year that a pupil enrolls in a program of distance education. ~~[The written agreement must:]~~

~~(a) Contain a statement prepared by the governing body of the charter school in which the pupil is enrolled indicating that the governing body understands that the Superintendent of Public Instruction will make appropriate adjustments in the apportionments to the charter school pursuant to NRS 387.124 to account for the pupil's enrollment in the program of distance education;~~

~~(b) Contain a statement prepared by the governing body of the charter school in which the pupil is enrolled and the board of trustees or governing body that provides the program of distance education setting forth the percentage of the total time services will be provided to the pupil through the program of distance education per school day in proportion to the total time services are provided during a school day to pupils who are counted pursuant to subparagraph (2) of paragraph (a) of subsection 1 of NRS 387.1233 for the school district in which the pupil resides;~~

~~(c) Be signed by the governing body of the charter school in which the pupil is enrolled and the board of trustees or governing body that provides the program of distance education; and~~

~~(d) Include any other information required by the State Board by regulation.~~

~~4.—On or before the last day of the first school month of each school year or March 1 of each school year, as applicable for the semester of enrollment, a written agreement must be filed with the Superintendent of Public Instruction for each pupil who is enrolled in a charter school and who is enrolled part time in a program of distance education provided by a school district or another charter school. If an agreement is not filed for such a pupil, the Superintendent of Public Instruction shall not apportion money for that pupil to the governing body of the charter school in which the pupil is enrolled, or the board of trustees or governing body that provides the program of distance education.]~~

Sec. 10. NRS 388.866 is hereby amended to read as follows:

388.866 1. The board of trustees of a school district or the governing body of a charter school that provides a program of distance education shall ensure that ~~[, for]~~ :

~~(a)~~ *For each course offered through the program, a teacher:*

~~[(a)]~~ *(1) Provides the work assignments to each pupil enrolled in the course that are necessary for the pupil to complete the course; [and]*

~~[(b)]~~ *(2) Meets or otherwise communicates with the pupil at least once each week during the course to discuss the pupil's progress [;] ; and*

~~[(c)]~~ *(3) Enters into a written agreement with the pupil and his parent or legal guardian outlining the objectives of the course, the timeline for completion of the course and the method by which the progress of the pupil will be assessed [;] ; or*

(b) The program satisfies the requirements of a plan to operate an alternative program of education submitted by the school district and approved pursuant to NRS 388.537.

2. If a course offered through a program of distance education is a core academic subject, as defined in NRS 389.018, the teacher who fulfills the requirements of subsection 1 must be a:

- (a) Licensed teacher; or
- (b) Teacher, instructor or professor who provides instruction at a community college or university. Such a teacher, instructor or professor may only be assigned to a course of distance education in the subject area for which he provides instruction at a community college or university.

Sec. 11. NRS 389.155 is hereby amended to read as follows:

389.155 1. The State Board shall, by regulation, establish a program pursuant to which a pupil ~~enrolled full~~ :

- (a) *Enrolled full time in ~~high school or a pupil who~~ public school;*
- (b) *Enrolled in an alternative program pursuant to NRS 388.537;*
- (c) *Enrolled in a program designed to meet the requirements for an adult standard diploma; or*
- (d) *Except as otherwise provided in subsection 4, who has been suspended or expelled from a public school ,*

↪ may complete any required or elective course by independent study outside of the normal classroom setting. A program of independent study provided pursuant to this section may be offered through a program of distance education pursuant to NRS 388.820 to 388.874, inclusive.

2. The regulations must : ~~require that:~~

- (a) Require that:
- (1) The teacher of the course assign to the pupil the work assignments necessary to complete the course; and

~~[(b)] [The]~~ (2) *For each course in which the pupil is enrolled, the pupil and the teacher of the course meet or otherwise communicate with each other at least once each week ~~during~~ for the duration of the course to discuss the pupil's progress ~~;~~ or*

(b) Require that the program of independent study satisfies the requirements of a plan to operate an alternative program of education submitted by the school district and approved pursuant to NRS 388.537.

3. ~~[Except as otherwise provided in this subsection, the]~~ The board of trustees of a school district may, in accordance with the regulations adopted pursuant to subsections 1 and 2, provide for independent study by the pupils ~~;~~

~~(a) Enrolled full time in high schools in its district. A board of trustees that chooses to allow such study may provide that:~~

~~(1) The pupils participating in the independent study be given instruction individually or in a group.~~

~~(2) The independent study be offered during the regular school day.~~

~~(b) Who have been suspended or expelled from a public school.] described in subsection 1.~~

4. A program of independent study offered pursuant to this ~~paragraph~~ section must not allow a pupil who has been suspended or expelled from a

public school to attend that public school during the period of his suspension or expulsion.

Sec. 12. NRS 389.160 is hereby amended to read as follows:

389.160 1. A pupil enrolled in high school, including, without limitation, a pupil enrolled in grade 9, 10, 11 or 12 in a charter school ~~[-]~~ *or a pupil enrolled in a program designed to meet the requirements for an adult standard diploma*, who successfully completes a course of education offered by a community college or university in this State which has been approved pursuant to subsection 2, must be allowed to apply the credit received for the course so completed to the total number of credits required for graduation from *the* high school or the charter school in which the pupil is enrolled ~~[-]~~ *or the credits required for receipt of an adult standard diploma, as applicable.*

2. With the approval of the State Board, the board of trustees of each county school district and the governing body of each charter school shall prescribe the courses for which credits may be received pursuant to subsection 1, including occupational courses for academic credit, and the amount of credit allowed for the completion of those courses.

Sec. 13. NRS 392.466 is hereby amended to read as follows:

392.466 1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although he may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070; or

(b) Enroll in a program of independent study provided pursuant to ~~paragraph (b) of subsection 3 of~~ NRS 389.155 *for pupils who have been suspended or expelled from public school* or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the *requirements of the applicable [requirements.] program.*

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although he may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070; or

(b) Enroll in a program of independent study provided pursuant to ~~paragraph (b) of subsection 3 of~~ NRS 389.155 *for pupils who have been*

suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the *requirements of the applicable [requirements.] program.*

➡ The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to the expulsion requirement of this subsection if such modification is set forth in writing.

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil must be suspended or expelled from the school for a period equal to at least one semester for that school. For the period of his suspension or expulsion, the pupil must:

(a) Receive equivalent instruction authorized by the State Board pursuant to subsection 1 of NRS 392.070; or

(b) Enroll in a program of independent study provided pursuant to ~~paragraph (b) of subsection 3 of~~ NRS 389.155 *for pupils who have been suspended or expelled from public school* or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the *requirements of the applicable [requirements.] program.*

4. This section does not prohibit a pupil from having in his possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

5. Any pupil in grades 1 to 6, inclusive, except a pupil who has been found to have possessed a firearm in violation of subsection 2, may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

6. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

7. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku, switchblade knife or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.

8. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if he is accepted for enrollment by the charter school pursuant to NRS 386.580. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to his suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

Sec. 14. NRS 392.4675 is hereby amended to read as follows:

392.4675 1. Except as otherwise provided in this section, a pupil who is suspended or expelled from:

(a) Any public school in this State pursuant to NRS 392.466; or

(b) Any school outside of this State for the commission of any act which, if committed within this State, would be a ground for suspension or expulsion from public school pursuant to NRS 392.466,
 ➤ is ineligible to attend any public school in this State during the period of that suspension or expulsion.

2. A school district or a charter school, if the charter school offers the applicable program, may allow a pupil who is ineligible to attend a public school pursuant to this section to enroll in:

(a) An alternative program for the education of pupils at risk of dropping out of ~~[high school]~~ *school provided pursuant to NRS 388.537;*

(b) A program of independent study provided pursuant to ~~[paragraph (b) of subsection 3 of NRS 389.155, if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements;]~~ *NRS 389.155 for pupils who have been suspended or expelled from public school;*

(c) A program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive ; ~~[if he qualifies for enrollment and is accepted for enrollment in accordance with the applicable requirements;]~~ or

(d) Any program of instruction offered pursuant to the provisions of NRS 388.550 ~~[,]~~,

↪ *if he qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.* A school district or charter school may conduct an investigation of the background of any such pupil to determine if the educational needs of the pupil may be satisfied without undue disruption to the program. If an investigation is conducted, the board of trustees of the school district or the governing body of the charter school shall, based on the results of the investigation, determine if the pupil will be allowed to enroll in such a program.

3. The provisions of subsections 1 and 2 do not prohibit a pupil from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if he is accepted for enrollment by the charter school pursuant to NRS 386.580. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to his suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

Sec. 15. NRS 388.870 is hereby repealed.

Sec. 16. This act becomes effective on July 1, 2007.

TEXT OF REPEALED SECTION

388.870 Contents and submission of annual report by provider of distance education program. On or before November 1 of each year, the board of trustees of a school district or the governing body of a charter school that provides a program of distance education shall submit to the Department and to the Legislative Bureau of Educational Accountability and Program Evaluation a written report that contains a summary of the program for the immediately preceding school year which includes, without limitation:

1. A description of the manner in which the program was carried out;
2. The expenditures made for the program;
3. The number of pupils who were enrolled full time in the program and the number of pupils who were enrolled part time in the program;
4. If available, a description of the reasons why pupils enrolled in the program;
5. The number of pupils who dropped out of the program, if any;
6. A description of any disciplinary measures taken against pupils who were enrolled in the program; and
7. An analysis of the academic achievement and performance of the pupils who were enrolled in the program before and after the pupils participated in the program.

Senator Washington moved that the Senate concur in the Assembly amendment to Senate Bill No. 535.

Remarks by Senator Washington.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 5.

The following Assembly amendment was read:

Amendment No. 934.

"SUMMARY—Requires the establishment of the Cancer Drug Donation Program. (BDR 40-19)"

"AN ACT relating to cancer; requiring the State Board of Pharmacy to establish the Cancer Drug Donation Program; requiring the Board to adopt regulations to carry out the Program; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes a system for the reporting and analyzing of information relating to cancer and establishes task forces on prostate cancer and cervical cancer. (Chapter 457 of NRS)

Section 6 of this bill requires the State Board of Pharmacy to establish the Cancer Drug Donation Program. The Program will distribute and dispense cancer drugs donated to the Program to cancer patients. Section 6 also authorizes persons to donate cancer drugs at any pharmacy, medical facility, health clinic or provider of health care that participates in the Program. The donated drugs must be in the original, unopened and sealed packages and must not be adulterated or misbranded. Section 9 of this bill requires the Board to adopt regulations to carry out the Program. Section 10 of this bill provides immunity from civil liability for damages caused by ~~any act or omission~~ certain acts or omissions of a person other than a pharmacy, medical facility, health clinic or provider of health care who donates a cancer drug to the Program. ~~or who accepts, distributes or dispenses a cancer drug donated to the Program. Section 10 also provides immunity from civil and criminal liability to a manufacturer of a cancer drug that is donated, accepted, distributed or dispensed pursuant to the Program.~~

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

Section 1. Chapter 457 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 5.5, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. "Cancer drug" means a prescription drug that is used to treat:

1. Cancer or its side effects; or
2. The side effects of a prescription drug that is used to treat cancer or its side effects.

↪ The term includes medical supplies used in the administration of a cancer drug.

Sec. 4. "Medical Facility" has the meaning ascribed to it in NRS 449.0151.

Sec. 5. "Program" means the Cancer Drug Donation Program established pursuant to section 6 of this act.

Sec. 5.5. *"Provider of health care" has the meaning ascribed to it in NRS 629.031.*

Sec. 6. 1. *The State Board of Pharmacy shall establish and maintain the Cancer Drug Donation Program to accept, distribute and dispense cancer drugs donated to the Program.*

2. *Any person may donate a cancer drug to the Program. A cancer drug may be donated at a pharmacy, medical facility, health clinic or provider of health care that participates in the Program.*

3. *A pharmacy, medical facility, health clinic or provider of health care that participates in the Program may charge a patient who receives a cancer drug a handling fee in accordance with the regulations adopted by the State Board of Pharmacy pursuant to section 9 of this act.*

4. *A cancer drug may be accepted, distributed or dispensed pursuant to the Program only if the cancer drug:*

(a) Is in its original, unopened, sealed and tamper-evident unit dose packaging or, if packaged in single-unit doses, the single-unit dose packaging is unopened;

(b) Is not adulterated or misbranded; and

(c) Bears an expiration date that is later than 30 days after the drug is donated.

5. *A cancer drug donated to the Program may not be:*

(a) Resold; or

(b) Designated by the donor for a specific person.

6. *The provisions of this section do not require a pharmacy, medical facility, health clinic or provider of health care to participate in the Program.*

Sec. 7. *A cancer drug donated for use in the Program may only be dispensed:*

1. *By a pharmacist who is registered pursuant to chapter 639 of NRS;*

2. *Pursuant to a prescription written by a person who is authorized to write prescriptions; and*

3. *To a person who is eligible to receive cancer drugs dispensed pursuant to the Program.*

Sec. 8. *A pharmacy, medical facility, health clinic or provider of health care that participates in the Program:*

1. *Shall comply with all applicable state and federal laws concerning the storage, distribution and dispensing of the cancer drugs; and*

2. *May distribute a cancer drug donated to the Program to another pharmacy, medical facility, health clinic or provider of health care for use in the Program.*

Sec. 9. *The State Board of Pharmacy shall adopt regulations to carry out the provisions of sections 2 to 10, inclusive, of this act. The regulations must prescribe, without limitation:*

1. The requirements for the participation of pharmacies, medical facilities, health clinics and providers of health care in the Program, including, without limitation:

(a) A requirement that each provider of health care who participates in the Program provide, as a regular course of practice, medical services and goods to persons with cancer; and

(b) A requirement that each medical facility that participates in the Program provide, as a regular course of practice, medical services and goods to persons with cancer;

2. The criteria for determining the eligibility of persons to receive cancer drugs dispensed pursuant to the Program, including, without limitation, a requirement that a person must sign up with the State Board of Pharmacy on a form prescribed by the Board to be eligible to receive cancer drugs dispensed pursuant to the Program;

3. The categories of cancer drugs that may be accepted for distribution or dispensing pursuant to the Program; and

4. The maximum fee that a pharmacy, medical facility, health clinic or provider of health care may charge to distribute or dispense cancer drugs pursuant to the Program.

Sec. 10. ~~Any person~~ other than a pharmacy, medical facility, health clinic or provider of health care who donates ~~or accepts, distributes or dispenses~~ a cancer drug in accordance with the provisions of sections 2 to 10, inclusive, of this act, and the regulations adopted pursuant to section 9 of this act, is not liable for any civil damages as a result of any act or omission, not amounting to gross negligence, by him in donating ~~or accepting, distributing or dispensing~~ the cancer drug.

~~2. A manufacturer of a cancer drug is immune from civil or criminal liability for any claim arising due to an injury, death or a loss to person or property, resulting from the use of the cancer drug that was donated, accepted, distributed or dispensed pursuant to the Program, if the manufacturer acted without malicious intent, including, without limitation, liability for failure to transfer or communicate product or consumer information concerning the cancer drug or the expiration date of the cancer drug.~~

Sec. 11. 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. 5.

Remarks by Senator Washington.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 19.

The following Assembly amendment was read:

Amendment No. 955.

"SUMMARY—Revises provisions relating to the Chiropractic Physicians' Board of Nevada. (BDR 54-573)"

"AN ACT relating to the Chiropractic Physicians' Board of Nevada; providing requirements for the reinstatement of certain licenses that have been suspended; revising provisions governing the renewal of a license or certificate; increasing the number of hours of continuing education required for the renewal of a license; increasing the maximum amount of certain fees that the Board may charge; eliminating the requirement that the Board file certain orders relating to the discipline of a licensee with the county recorder; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, a license or certificate issued by the Chiropractic Physicians' Board of Nevada must be renewed annually and a licensee must complete at least 12 hours of continuing education annually. (NRS 634.130) Section 2 of this bill revises the renewal requirement for a license or certificate to provide that a license or certificate must be renewed biennially. Section 2 also increases the number of hours of continuing education a licensee must complete.

Existing law authorizes the Board to charge various fees up to a maximum amount as indicated by statute. (NRS 634.135) Section 3 of this bill revises the existing statutory schedule of maximum fees: (1) to reflect the renewal of a license or certificate biennially; and (2) to clarify the purpose of the existing fee for written certification of licensure. ~~[-; and (3) to increase the fee for the review by the Board of various courses of continuing education in chiropractic.]~~

Existing law also provides that if a licensee or holder of a certificate does not renew a license or certificate on time or fails to notify the Board of a change in the location of the office of the licensee or holder, the license or certificate of the person will be automatically suspended. (NRS 634.130) Section 2 of this bill provides that a license that was suspended for the failure to renew on time or the failure to notify the Board of a change in location may be reinstated by paying the reinstatement and renewal fees within 1 year of the original renewal deadline. Section 1 of this bill provides for the reinstatement of suspended licenses that have not been reinstated within 1 year.

Existing law provides that every order of the Board which limits the practice of chiropractic or suspends or revokes a license must be filed with the county recorder. (NRS 634.200) Section 4 of this bill eliminates this requirement.

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

Section 1. Chapter 634 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a license has been automatically suspended pursuant to the provisions of subsection 5 of NRS 634.130 and not reinstated pursuant to the

provisions of that subsection, the person who held the license may apply to the Board to have the license reinstated to active status.

2. An applicant to have a suspended license reinstated to active status pursuant to subsection 1 must:

(a) Either:

(1) Submit satisfactory evidence to the Board:

(I) That he has maintained an active practice in another state, territory or country within the preceding 5 years;

(II) From all other licensing agencies which have issued him a license that he is in good standing and has no legal actions pending against him; and

(III) That he has participated in a program of continuing education in accordance with NRS 634.130 for the year in which he seeks to be reinstated to active status; or

(2) Score 75 percent or higher on an examination prescribed by the Board on the provisions of this chapter and the regulations adopted by the Board; and

(b) Pay:

(1) The fee for the biennial renewal of a license to practice chiropractic; and

(2) The fee for reinstating a license to practice chiropractic which has been suspended or revoked.

3. If any of the requirements set forth in subsection 2 are not met by an applicant for the reinstatement of a suspended license to active status, the Board, before reinstating the license of the applicant to active status:

(a) Must hold a hearing to determine the professional competency and fitness of the applicant; and

(b) May require the applicant to:

(1) Pass the Special Purposes Examination for Chiropractic prepared by the National Board of Chiropractic Examiners; and

(2) Satisfy any additional requirements that the Board deems to be necessary.

Sec. 2. NRS 634.130 is hereby amended to read as follows:

634.130 1. Licenses and certificates must be renewed ~~annually.~~ biennially. Each person who is licensed pursuant to the provisions of this chapter must, upon the payment of the required renewal fee and the submission of all information required to complete the renewal, be granted a renewal certificate which authorizes him to continue to practice for ~~1 year.~~ 2 years.

2. The renewal fee must be paid and all information required to complete the renewal must be submitted to the Board on or before January 1 of ~~the year to which it applies.~~ each odd-numbered year.

3. Except as otherwise provided in subsection 4, a licensee in active practice within this State must submit satisfactory proof to the Board that , during the 24 months immediately preceding the renewal date of his license,

he has attended at least ~~[12]~~ 36 hours of continuing education which is approved or endorsed by the Board. The educational requirement of this section may be waived by the Board if the licensee files with the Board a statement of a chiropractic physician, osteopathic physician or doctor of medicine certifying that the licensee is suffering from a serious or disabling illness or physical disability which prevented him from completing the requirements for continuing education during the ~~[12]~~ 24 months immediately preceding the renewal date of his license.

4. A licensee is not required to comply with the requirements of subsection 3 until the ~~calendar~~ first odd-numbered year after the year the Board issues to him an initial license to practice as a chiropractor in this State.

5. If a licensee fails to:

- (a) Pay his renewal fee by January 1 ~~[5]~~ of an odd-numbered year;
 - (b) Submit proof of continuing education pursuant to subsection 3;
 - (c) Notify the Board of a change in the location of his office pursuant to NRS 634.129; or
 - (d) Submit all information required to complete the renewal,
- ➔ his license is automatically suspended and, *except as otherwise provided in section 1 of this act*, may be reinstated only upon the payment, by January 1 of the even-numbered year following the year in which the license was suspended, of the required fee for reinstatement in addition to the renewal fee.

6. If a holder of a certificate as a chiropractor's assistant fails to:

- (a) Pay his renewal fee by January 1 ~~[5]~~ of an odd-numbered year;
 - (b) Notify the Board of a change in the location of his office pursuant to NRS 634.129; or
 - (c) Submit all information required to complete the renewal,
- ➔ his certificate is automatically suspended and may be reinstated only upon the payment of the required fee for reinstatement in addition to the renewal fee.

Sec. 3. NRS 634.135 is hereby amended to read as follows:

634.135 1. The Board may charge and collect fees not to exceed:

For an application for a license to practice chiropractic	\$200.00
For an examination for a license to practice chiropractic	200.00
For an application for, and the issuance of, a certificate as a chiropractor's assistant	100.00
For an examination for a certificate as a chiropractor's assistant	100.00
For the issuance of a license to practice chiropractic	300.00
For the ~~[annual]~~ biennial renewal of a license to practice chiropractic	~~[500.00]~~ 1,000.00
For the ~~[annual]~~ biennial renewal of an inactive license to practice chiropractic	~~[150.00]~~ 300.00

For the ~~{annual}~~ <i>biennial</i> renewal of a certificate as a chiropractor's assistant	~~[100.00]~~ 200.00
For the restoration to active status of an inactive license to practice chiropractic	300.00
For reinstating a license to practice chiropractic which has been suspended or revoked	500.00
For reinstating a certificate as a chiropractor's assistant which has been suspended pursuant to NRS 634.130	\$100.00
For a review of any subject on the examination	25.00
For the issuance of a duplicate license or for changing the name on a license	35.00
For written ~~{certification}~~ <i>verification</i> of licensure or issuance of a certificate of good standing.....	25.00
For providing a list of persons who are licensed to practice chiropractic to a person who is not licensed to practice chiropractic.....	25.00
For providing a list of persons who were licensed to practice chiropractic following the most recent examination of the Board to a person who is not licensed to practice chiropractic.....	10.00
For a set of mailing labels containing the names and addresses of the persons who are licensed to practice chiropractic in this State.....	35.00
For providing a copy of the statutes, regulations and other rules governing the practice of chiropractic in this State to a person who is not licensed to practice chiropractic.....	25.00
For each page of a list of continuing education courses that have been approved by the Board.....	.50
For an application to a preceptor program offered by the Board to graduates of chiropractic schools or colleges	~~[\$]~~ 35.00
~~For a review by the Board of a course of continuing education in chiropractic offered by a nonprofit professional chiropractic association of this State or another state.....~~	~~25.00~~
For a review by the Board of a course ~~for continuing education in chiropractic~~ offered by a chiropractic school or college <u>or a course of continuing education in chiropractic.....</u>	25.00
~~For a review by the Board of a course of continuing education in chiropractic offered by a commercial entity, an association that is not a nonprofit professional chiropractic association of this State or another state, or a chiropractic school or college that~~	~~200.00~~

~~is not accredited by the Council on Chiropractic Education~~ ~~500.001~~

2. In addition to the fees set forth in subsection 1, the Board may charge and collect reasonable and necessary fees for any other service it provides.

3. For a check or other method of payment made payable to the Board or tendered to the Board that is returned to the Board or otherwise dishonored upon presentation for payment, the Board shall assess and collect a fee in the amount established by the State Controller pursuant to NRS 353C.115.

Sec. 4. NRS 634.200 is hereby amended to read as follows:

634.200 1. Any person who has been placed on probation or whose license has been limited, suspended or revoked by the Board is entitled to judicial review of the Board's order.

2. ~~Every order of the Board which limits the practice of chiropractic or suspends or revokes a license is effective from the date the Secretary certifies the order to the proper county recorder until the order is modified or reversed by a final judgment of the court.~~

3. The district court shall give a petition for judicial review of the Board's order priority over other civil matters which are not expressly given that priority by law.

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

Senator Townsend moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 19.

Remarks by Senator Townsend.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 84.

The following Assembly amendment was read:

Amendment No. 797.

"SUMMARY—Revises provisions governing certificates pertaining to the subdivision of certain buildings. (BDR 22-377)"

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

Legislative Counsel's Digest:

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

signed by the building official having jurisdiction over the area within which the building is situated.

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

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

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

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

3. Except as otherwise provided in subsection 4, a boundary or line must not be created by a conveyance of a parcel from an industrial or commercial subdivision unless a professional land surveyor has surveyed the boundary or line and set the monuments. The surveyor shall file a record of the survey pursuant to the requirements set forth in NRS 625.340. Any conveyance of such a parcel must contain a legal description of the parcel that is independent of the record of survey.

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

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

Senator Hardy moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 84.

Remarks by Senator Hardy.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 171.

The following Assembly amendment was read:

Amendment No. 906.

"SUMMARY—Creates ~~[the Nevada Academy of Health]~~ *an advisory committee to the Legislative Committee on Health Care.* (BDR 40-952)"

"AN ACT relating to health; creating ~~[the Nevada Academy of Health; prescribing its powers and duties; creating the governing body of the Academy; prescribing its powers and duties;]~~ *an advisory committee to the*

Legislative Committee on Health Care; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[Section 6 of this bill creates the Nevada Academy of Health. Section 7 of this bill establishes the duties of the Academy, including studying issues relating to health care in this State and establishing standards and goals concerning the provision of such health care. Section 8 of this bill creates the governing body of the Academy. Section 9 of this bill prescribes the powers and duties of the governing body. Section 10 of this bill establishes the requirements for the use of money received by the Academy. Section 11 of this bill authorizes the Academy to accept gifts, grants and donations of money from any source. Section 12 of this bill provides for the appointment of the members of the governing body of the Academy to specific terms of office.] This bill creates an advisory committee to the Legislative Committee on Health Care, which is established pursuant to NRS 439B.200.~~

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

Delete existing sections 1 through 13 of this bill and replace with the following new sections 1 and 2:

Section 1. Chapter 439B of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby established an advisory committee to the Committee consisting of 14 members as follows:

(a) The Director or his designee;

(b) One member who represents the Nevada System of Higher Education appointed by the Board of Regents of the University of Nevada;

(c) Six members appointed by the Governor;

(d) Two members appointed by the Majority Leader of the Senate;

(e) Two members appointed by the Speaker of the Assembly;

(f) One member appointed by the Minority Leader of the Senate; and

(g) One member appointed by the Minority Leader of the Assembly.

2. The Chairman of the advisory committee must be elected from among the members of the advisory committee.

3. Each member of the advisory committee who is not an officer or employee of the State serves without compensation and is not entitled to receive a per diem allowance or travel expenses.

4. Each member of the advisory committee who is an officer or employee of the State must be relieved from his duties without loss of his regular compensation so that he may attend meetings of the Committee or the advisory committee and is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, which must be paid by the state agency that employs him.

Sec. 2. This act becomes effective on July 1, 2007, and expires by limitation on June 30, 2009.

Senator Washington moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 171.

Remarks by Senator Washington.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 320.

The following Assembly amendment was read:

Amendment No. 871.

"SUMMARY—Exempts the rental or lease of certain space at certain local governmental airports from requirements relating to appraisals and public auctions. (BDR 44-758)"

"AN ACT relating to airports; exempting the rental or lease of certain space at certain local governmental airports from requirements relating to appraisals and public auctions; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law and with certain exceptions, the governing body of a city is required to obtain two independent appraisals when offering real property for sale or lease and is required to sell or lease the property at auction. (NRS 268.059-268.062) Similar provisions apply to counties. (NRS 244.2795-244.283) Under existing law, airport authorities created by special acts of the Legislature are required to sell or otherwise dispose of real property by public auction. (Airport Auth. Act for Battle Mountain, § 10; Airport Auth. Act for Carson City, § 9; Reno-Tahoe Airport Auth. Act, § 10) This bill authorizes the ~~[governing body of a city located in]~~ board of county commissioners of a county whose population is less than 40,000 (currently counties other than Clark, Washoe, Elko and Douglas Counties, and Carson City) , the governing body of a city located in such a county or an airport authority in such a county (currently the Airport Authority of Battle Mountain) to rent or lease space for the parking or storage of aircraft on the grounds of ~~[a municipal]~~ an airport owned or operated by the county, city or ~~[the]~~ airport authority without conducting or causing to be conducted an appraisal or a public auction. (NRS 496.080; Airport Auth. Act for Battle Mountain, § 10)

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

Section 1. NRS 496.080 is hereby amended to read as follows:

496.080 1. Except as otherwise provided in subsection 2 or as may be limited by the terms and conditions of any grant, loan or agreement pursuant to NRS 496.180, every municipality may, by sale, lease or otherwise, dispose of any airport, air navigation facility ~~[]~~ or other property, or portion thereof or interest therein, acquired pursuant to this chapter.

2. The disposal by sale, lease or otherwise must be:

(a) ~~Made~~ Except as otherwise provided in subsection 3, made by public auction; and

(b) In accordance with the laws of this State, or provisions of the charter of the municipality, governing the disposition of other property of the municipality, except that in the case of disposal to another municipality or agency of the State or Federal Government for aeronautical purposes incident thereto, the sale, lease or other disposal may be effected in such manner and upon such terms as the governing body of the municipality may deem in the best interest of the municipality, and except as otherwise provided in subsections 3, 4 and 5 of NRS 496.090.

3. *The governing body of a city located in a county whose population is less than 40,000 may rent or lease to a person a space for the parking or storage of aircraft on the grounds of a municipal airport that is owned or operated by the city without conducting or causing to be conducted an appraisal or a public auction.*

Sec. 1.2. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

A board of county commissioners of a county whose population is less than 40,000 may rent or lease to a person a space for the parking or storage of aircraft on the grounds of an airport that is owned or operated by the county without conducting or causing to be conducted an appraisal or a public auction.

Sec. 1.4. NRS 244.2795 is hereby amended to read as follows:

244.2795 1. Except as otherwise provided in NRS 244.189, 244.276, 244.279, 244.2825, 244.284, 244.287, 244.290 and section 1.2 of this act and 278.479 to 278.4965, inclusive, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on or before October 1, 2004, except if the board of county commissioners is entering into a joint development agreement for real property owned by the county to which the board of county commissioners is a party, except for a lease of residential property with a term of 1 year or less and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election or special election, the board of county commissioners shall, when offering any real property for sale or lease:

(a) Obtain two independent appraisals of the real property before selling or leasing it. The appraisals must have been prepared not more than 6 months before the date on which the real property is offered for sale or lease.

(b) Select the two independent appraisers from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the board of county commissioners as to the qualifications of the appraiser is conclusive.

2. The board of county commissioners shall adopt by ordinance the procedures for creating or amending a list of appraisers qualified to conduct appraisals of real property offered for sale or lease by the board. The list must:

- (a) Contain the names of all persons qualified to act as a general appraiser in the same county as the real property that may be appraised; and
- (b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income that may constitute a conflict of interest and any relationship with the real property owner or the owner of an adjoining real property.

4. An appraiser shall not perform an appraisal on any real property for sale or lease by the board of county commissioners if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the real property or an adjoining property.

Sec. 1.6. NRS 244.281 is hereby amended to read as follows:

244.281 Except as otherwise provided in this section and NRS 244.189, 244.276, 244.279, 244.2815, 244.2825, 244.284, 244.287, 244.290, and section 1.2 of this act and 278.479 to 278.4965, inclusive, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on or before October 1, 2004, except if the board of county commissioners is entering into a joint development agreement for real property owned by the county to which the board of county commissioners is a party, except for a lease of residential property with a term of 1 year or less and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election or special election:

1. When a board of county commissioners has determined by resolution that the sale or lease of any real property owned by the county will be for purposes other than to establish, align, realign, change, vacate or otherwise adjust any street, alley, avenue or other thoroughfare, or portion thereof, or flood control facility within the county and will be in the best interest of the county, it may:

(a) Sell the property in the manner prescribed for the sale of real property in NRS 244.282.

(b) Lease the property in the manner prescribed for the lease of real property in NRS 244.283.

2. Before the board of county commissioners may sell or lease any real property as provided in subsection 1, it shall:

(a) Post copies of the resolution described in subsection 1 in three public places in the county; and

(b) Cause to be published at least once a week for 3 successive weeks, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

(1) A description of the real property proposed to be sold or leased in such a manner as to identify it;

(2) The minimum price, if applicable, of the real property proposed to be sold or leased; and

(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.

➔ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. If the board of county commissioners by its resolution further finds that the property to be sold or leased is worth more than \$1,000, the board shall appoint two or more disinterested, competent real estate appraisers pursuant to NRS 244.2795 to appraise the property and, except for property acquired pursuant to NRS 371.047, shall not sell or lease it for less than the highest appraised value.

4. If the property is appraised at \$1,000 or more, the board of county commissioners may:

(a) Lease the property; or

(b) Sell the property either for cash or for not less than 25 percent cash down and upon deferred payments over a period of not more than 10 years, secured by a mortgage or deed of trust, bearing such interest and upon such further terms as the board of county commissioners may specify.

5. A board of county commissioners may sell or lease any real property owned by the county without complying with the provisions of NRS 244.282 or 244.283 to:

(a) A person who owns real property located adjacent to the real property to be sold or leased if the board has determined by resolution that:

(1) The real property is a:

(I) Remnant that was separated from its original parcel due to the construction of a street, alley, avenue or other thoroughfare, or portion thereof, flood control facility or other public facility;

(II) Parcel that, as a result of its size, is too small to establish an economically viable use by anyone other than the person who owns real property adjacent to the real property for sale or lease; or

(III) Parcel which is subject to a deed restriction prohibiting the use of the real property by anyone other than the person who owns real property adjacent to the real property for sale or lease; and

(2) The sale will be in the best interest of the county.

(b) Another governmental entity if:

(1) The sale or lease restricts the use of the real property to a public use; and

(2) The board adopts a resolution finding that the sale or lease will be in the best interest of the county.

6. A board of county commissioners that disposes of real property pursuant to subsection 4 is not required to offer to reconvey the real property to the person from whom the real property was received or acquired by donation or dedication.

7. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the real property, the board of county commissioners may offer the real property for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the real property, the board of county commissioners must obtain a new appraisal of the real property pursuant to the provisions of NRS 244.2795 before offering the real property for sale or lease a second time. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the real property, the board of county commissioners may list the real property for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the real property or an adjoining property.

8. As used in this section, "flood control facility" has the meaning ascribed to it in NRS 244.276.

Sec. 1.8. NRS 244.283 is hereby amended to read as follows:

244.283 1. When the board of county commissioners determines that the lease of real property belonging to the county for industrial, commercial, residential or recreational purposes is necessary or desirable, the board may lease such real property, whether acquired by purchase, dedication or otherwise. Such a lease must not be in contravention of any condition in a gift or devise of real property to the county.

2. Except as otherwise provided in NRS 244.279, *and section 1.2 of this act*, before ordering the lease of any property the board shall, in open meeting by a majority vote of the members, adopt a resolution declaring its intention to lease the property. The resolution must:

(a) Describe the property proposed to be leased in such manner as to identify it.

(b) Specify the minimum rental, and the terms upon which it will be leased.

(c) Fix a time, not less than 3 weeks thereafter, for a public meeting of the board to be held at its regular place of meeting, at which sealed proposals to lease will be received and considered.

3. Notice of the adoption of the resolution and of the time and place of holding the meeting must be given by:

(a) Posting copies of the resolution in three public places in the county not less than 15 days before the date of the meeting; and

(b) Publishing the resolution not less than once a week for 2 successive weeks before the meeting in a newspaper of general circulation published in the county, if any such newspaper is published therein.

4. At the time and place fixed in the resolution for the meeting of the board, all sealed proposals which have been received must, in public session, be opened, examined and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to lease and which are made by responsible bidders, the proposal which is the highest must be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.

5. Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to lease the property upon the terms and conditions specified in the resolution, for a rental exceeding by at least 5 percent the highest written proposal, then the highest oral bid which is made by a responsible person must be finally accepted.

6. A person may not make an oral bid unless, at least 5 days before the meeting held for receiving and considering bids, he submits to the board written notice of his intent to make an oral bid and a statement establishing his financial responsibility to the satisfaction of the board.

7. The final acceptance by the board may be made either at the same session or at any adjourned session of the same meeting held within the 21 days next following.

8. The board may, either at the same session or at any adjourned session of the same meeting held within the 21 days next following, if it deems such action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from lease.

9. Any resolution of acceptance of any bid made by the board must authorize and direct the chairman to execute a lease and to deliver it upon performance and compliance by the lessee with all the terms or conditions of his contract which are to be performed concurrently therewith.

10. All money received from rentals of real property must be deposited forthwith with the county treasurer to be credited to the county general fund.

11. This section does not apply to leases of real property made pursuant to NRS 244.288, 334.070 or 338.177.

Sec. 2. NRS 266.267 is hereby amended to read as follows:

266.267 1. A city council shall not enter into a lease of real property owned by the city for a term of 3 years or longer or enter into a contract for the sale of real property until after the property has been appraised pursuant to NRS 268.059. Except as otherwise provided in this section, ~~and~~ paragraph (a) of subsection 1 of NRS 268.050 ~~and subsection 3 of NRS 496.080~~:

(a) The sale or lease of real property must be made in the manner required pursuant to NRS 268.059, 268.061 and 268.062; and

(b) A lease or sale must be made at or above the highest appraised value of the real property as determined pursuant to the appraisal conducted pursuant to NRS 268.059.

2. The city council may sell or lease real property for less than its appraised value to any person who maintains or intends to maintain a business within the boundaries of the city which is eligible pursuant to NRS 374.357 for an abatement from the sales and use taxes imposed pursuant to chapter 374 of NRS.

Sec. 3. NRS 268.059 is hereby amended to read as follows:

268.059 1. Except as otherwise provided in NRS 268.048 to 268.058, inclusive, and 278.479 to 278.4965, inclusive, *and subsection 3 of NRS 496.080*, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election, primary or general city election or special election, the governing body shall, when offering any real property for sale or lease:

(a) Obtain two independent appraisals of the real property before selling or leasing it. The appraisals must be based on the zoning of the real property as set forth in the master plan for the city and must have been prepared not more than 6 months before the date on which real property is offered for sale or lease.

(b) Select the two independent appraisers from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of each appraiser selected pursuant to paragraph (b). The determination of the governing body as to the qualifications of the appraiser is conclusive.

2. The governing body shall adopt by ordinance the procedures for creating or amending a list of appraisers qualified to conduct appraisals of real property offered for sale or lease by the governing body. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the real property that may be appraised; and

(b) Be organized at random and rotated from time to time.

3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income of the appraiser that may constitute a conflict of interest and any relationship of the appraiser with the property owner or the owner of an adjoining property.

4. An appraiser shall not perform an appraisal on any real property offered for sale or lease by the governing body if the appraiser or a person

related to the appraiser within the first degree of consanguinity or affinity has an interest in the real property or an adjoining property.

Sec. 4. NRS 268.061 is hereby amended to read as follows:

268.061 Except as otherwise provided in this section and NRS 268.063, 268.048 to 268.058, inclusive, and 278.479 to 278.4965, inclusive, *and subsection 3 of NRS 496.080*, except as otherwise provided by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election, primary or general city election or special election:

1. If a governing body has determined by resolution that the sale or lease of any real property owned by the city will be in the best interest of the city, it may sell or lease the real property in the manner prescribed for the sale or lease of real property in NRS 268.062.

2. Before the governing body may sell or lease any real property as provided in subsection 1, it shall:

(a) Post copies of the resolution described in subsection 1 in three public places in the city; and

(b) Cause to be published at least once a week for 3 successive weeks, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

(1) A description of the real property proposed to be sold or leased in such a manner as to identify it;

(2) The minimum price, if applicable, of the real property proposed to be sold or leased; and

(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.

➡ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. If the governing body by its resolution finds additionally that the real property to be sold is worth more than \$1,000, the board shall conduct an appraisal pursuant to NRS 268.059 to determine the value of the real property and, except for real property acquired pursuant to NRS 371.047, shall not sell or lease it for less than the highest appraised value.

4. If the real property is appraised at \$1,000 or more, the governing body may:

(a) Lease the real property; or

(b) Sell the real property for:

(1) Cash; or

(2) Not less than 25 percent cash down and upon deferred payments over a period of not more than 10 years, secured by a mortgage or deed of trust bearing such interest and upon such further terms as the governing body may specify.

5. A governing body may sell or lease any real property owned by the city without complying with the provisions of this section and NRS 268.059 and 268.062 to:

(a) A person who owns real property located adjacent to the real property to be sold or leased if the governing body has determined by resolution that:

(1) The real property is a:

(I) Remnant that was separated from its original parcel due to the construction of a street, alley, avenue or other thoroughfare, or portion thereof, flood control facility or other public facility;

(II) Parcel that, as a result of its size, is too small to establish an economically viable use by anyone other than the person who owns real property adjacent to the real property offered for sale or lease; or

(III) Parcel which is subject to a deed restriction prohibiting the use of the real property by anyone other than the person who owns real property adjacent to the real property offered for sale or lease; and

(2) The sale or lease will be in the best interest of the city.

(b) Another governmental entity if:

(1) The sale or lease restricts the use of the real property to a public use; and

(2) The governing body adopts a resolution finding that the sale or lease will be in the best interest of the city.

6. A governing body that disposes of real property pursuant to subsection 5 is not required to offer to reconvey the real property to the person from whom the real property was received or acquired by donation or dedication.

7. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the real property, the governing body may offer the real property for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the real property, the governing body must obtain a new appraisal of the real property pursuant to the provisions of NRS 268.059 before offering the real property for sale or lease a second time. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the real property, the governing body may list the real property for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the real property or an adjoining property.

Sec. 5. NRS 268.062 is hereby amended to read as follows:

268.062 1. Except as otherwise provided in this section and NRS 268.063, 268.048 to 268.058, inclusive, and 278.479 to 278.4965, inclusive, *and subsection 3 of NRS 496.080*, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on October 1, 2004, except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election, the governing body shall, in open meeting by a majority vote of the members and before ordering the sale or lease at auction of any real property, adopt a resolution declaring its intention to sell or lease the property at auction. The resolution must:

(a) Describe the property proposed to be sold or leased in such a manner as to identify it;

(b) Specify the minimum price and the terms upon which the property will be sold or leased; and

(c) Fix a time, not less than 3 weeks thereafter, for a public meeting of the governing body to be held at its regular place of meeting, at which sealed bids will be received and considered.

2. Notice of the adoption of the resolution and of the time and place of holding the meeting must be given by:

(a) Posting copies of the resolution in three public places in the county not less than 15 days before the date of the meeting; and

(b) Causing to be published at least once a week for 3 successive weeks before the meeting, in a newspaper qualified under chapter 238 of NRS that is published in the county in which the real property is located, a notice setting forth:

(1) A description of the real property proposed to be sold or leased at auction in such a manner as to identify it;

(2) The minimum price of the real property proposed to be sold or leased at auction; and

(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.

➡ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. At the time and place fixed in the resolution for the meeting of the board, all sealed bids which have been received must, in public session, be opened, examined and declared by the governing body. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or lease and which are made by responsible

bidders, the bid which is the highest must be finally accepted, unless a higher oral bid is accepted or the governing body rejects all bids.

4. Before accepting any written bid, the governing body shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to buy or lease the property upon the terms and conditions specified in the resolution, for a price exceeding by at least 5 percent the highest written bid, then the highest oral bid which is made by a responsible person must be finally accepted.

5. The final acceptance by the governing body may be made either at the same session or at any adjourned session of the same meeting held within the 21 days next following.

6. The governing body may, either at the same session or at any adjourned session of the same meeting held within the 21 days next following, if it deems the action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale or lease.

7. Any resolution of acceptance of any bid made by the governing body must authorize and direct the chairman to execute a deed or lease and to deliver it upon performance and compliance by the purchaser or lessor with all the terms or conditions of his contract which are to be performed concurrently therewith.

Sec. 5.5. NRS 371.047 is hereby amended to read as follows:

371.047 1. A county may use the proceeds of the tax imposed pursuant to NRS 371.045, or of bonds, notes or other obligations incurred to which the proceeds of those taxes are pledged to finance a project related to the construction of a highway with limited access, to:

(a) Purchase residential real property which shares a boundary with a highway with limited access or a project related to the construction of a highway with limited access, and which is adversely affected by the highway. Not more than 1 percent of the proceeds of the tax or of any bonds to which the proceeds of the tax are pledged may be used for this purpose.

(b) Pay for the cost of moving persons whose primary residences are condemned for a right-of-way for a highway with limited access and who qualify for such payments. The board of county commissioners shall, by ordinance, establish the qualifications for receiving payments for the cost of moving pursuant to this paragraph.

2. A county may, in accordance with NRS 244.265 to 244.296, inclusive, and section 1.2 of this act, dispose of any residential real property purchased pursuant to this section, and may reserve and except easements, rights or interests related thereto, including, but not limited to:

(a) Abutter's rights of light, view or air.

(b) Easements of access to and from abutting land.

(c) Covenants prohibiting the use of signs, structures or devices advertising activities not conducted, services not rendered or goods not produced or available on the real property.

3. Proceeds from the sale or lease of residential real property acquired pursuant to this section must be used for the purposes set forth in this section and in NRS 371.045.

4. For the purposes of this section, residential real property is adversely affected by a highway with limited access if the construction or proposed use of the highway:

(a) Constitutes a taking of all or any part of the property, or interest therein;

(b) Lowers the value of the property; or

(c) Constitutes a nuisance.

5. As used in this section:

(a) "Highway with limited access" means a divided highway for through traffic with full control of access and with grade separations at intersections.

(b) "Primary residence" means a dwelling, whether owned or rented by the occupant, which is the sole principal place of residence of that occupant.

(c) "Residential real property" means a lot or parcel of not more than 1.5 acres upon which a single-family or multifamily dwelling is located.

Sec. 6. Section 10 of the Airport Authority Act for Battle Mountain, being chapter 458, Statutes of Nevada 1983, as last amended by chapter 381, Statutes of Nevada 2005, at page 1470, is hereby amended to read as follows:

Sec. 10. Authority: General powers. The Authority may do all things necessary to accomplish the purposes of this act. The Authority may, by reason of example and not of limitation:

1. Have perpetual succession and sue and be sued.

2. Plan, establish, acquire, construct, improve and operate an airport within Lander County.

3. Acquire real or personal property or any interest therein by gift, lease or purchase for any of the purposes provided in this section, including the elimination, prevention or marking of airport hazards.

4. Except as otherwise provided in this subsection, sell, lease or otherwise dispose of any real property. ~~[[[~~ *Unless the provisions of subsection 5 apply, if the Authority sells or otherwise disposes of real property, the sale or other disposal must be made by public auction.*

5. *The Authority may rent or lease to a person a space for the parking or storage of aircraft on the grounds of an airport controlled by the Authority without conducting or causing to be conducted an appraisal or a public auction.*

6. Acquire real property or any interest therein in areas most affected by aircraft noise for the purpose of resale or lease thereof, subject to restrictions limiting its use to industrial or other purposes least affected by aircraft noise.

~~[6-]~~ 7. Enter into agreements with Lander County and Battle Mountain to acquire, by lease, gift, purchase or otherwise, any airport of the county or municipality and to operate the airport.

~~{7-}~~ 8. Exercise the power of eminent domain and dominant eminent domain in the manner provided by law for the condemnation by a town of private property for public use to take any property necessary to the exercise of the powers granted, within the designated district in Lander County.

~~{8-}~~ 9. Apply directly to the proper federal, state, county and municipal officials and agencies or to any other source, public or private, for loans, grants, guarantees or other financial assistance in aid of airports operated by it, and accept the same.

~~{9-}~~ 10. Prepare and adopt a comprehensive, long-term general plan for the physical development of all property owned and operated by the Authority for submission to the Board of County Commissioners of Lander County. The Authority may prepare and adopt for approval by the Board of County Commissioners of Lander County a comprehensive zoning plan of all property owned or operated by the Authority. The zoning plan must be consistent with the requirements of chapter 497 of NRS and any applicable federal laws and regulations.

~~{10-}~~ 11. Have control of its airports with the right and duty to establish and charge fees, rentals, rates and other charges, and collect revenues therefrom, not inconsistent with the rights of the holders of its bonds, and enter into agreements with carriers for the payment of landing fees, rental rates and other charges.

~~{11-}~~ 12. Use in the performance of its functions the officers, agents, employees, services, facilities, records and equipment of Lander County or Battle Mountain, with the consent of the county or municipality and subject to such terms and conditions as may be agreed upon.

~~{12-}~~ 13. Enter upon such lands, waters or premises as in the judgment of the Authority may be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this act. The Authority is liable for actual damage done.

~~{13-}~~ 14. Provide its own fire protection, police and crash and rescue service.

~~{14-}~~ 15. Contract with carriers with regard to landings and the accommodations of the employees and passengers of such carriers.

~~{15-}~~ 16. Contract with persons or corporations to provide goods and services for the use of the employees and passengers of the carriers and the employees of the Authority, as necessary or incidental to the operation of the airports.

~~{16-}~~ 17. Hire and retain officers, agents and employees, including a fiscal adviser, engineers, attorneys or other professional or specialized personnel.

~~{17-}~~ 18. Adopt regulations governing vehicular traffic on its airports relating, but not limited to, speed restrictions, stopping, standing

and parking, loading zones, turning movements and parking meters. It is unlawful for any person to do any act forbidden or fail to perform any act required in such regulations.

Senator Hardy moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 320.

Remarks by Senator Hardy.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 352.

The following Assembly amendment was read:

Amendment No. 676.

"SUMMARY—Requires the Southern Nevada Enterprise Community Advisory Board to develop a project to make certain improvements to infrastructure in and near the Southern Nevada Enterprise Community. (BDR S-1315)"

"AN ACT relating to the Southern Nevada Enterprise Community; requiring the Southern Nevada Enterprise Community Advisory Board to develop a project to make certain improvements to infrastructure in and near the Community; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill enacts the Southern Nevada Enterprise Community Infrastructure Improvement Act and requires the Southern Nevada Enterprise Community Advisory Board to develop a project to make certain improvements to infrastructure in and near the Southern Nevada Enterprise Community.

WHEREAS, On December 21, 1994, President William Jefferson Clinton designated nine census tracts in the urban core of the Las Vegas Valley as an "enterprise community"; and

WHEREAS, The designation was accompanied by an award of \$2,950,000 in Title XX funds to be used for projects in the enterprise community; and

WHEREAS, The Southern Nevada Enterprise Community so created includes the target areas of West Las Vegas, East Las Vegas, Meadows Village and North Las Vegas; and

WHEREAS, The Southern Nevada Enterprise Community involves a partnership among the cities of Las Vegas and North Las Vegas, and Clark County, working together to harness resources from the public, private and nonprofit sectors to provide programs, services and facilities to the target areas; and

WHEREAS, The empowerment of persons and neighborhoods within the Southern Nevada Enterprise Community includes "weed and seed" strategies to "weed" out violence, gangs, drug trafficking and drug-related crime, and to "seed" neighborhoods with social services and economic revitalization; and

WHEREAS, Efforts to revitalize neighborhoods economically, to be successful, require a certain minimum level of "infrastructure" in the form of

the basic facilities, services and installations needed for the proper functioning of a community; now, therefore,

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

Section 1. This act may be cited as the Southern Nevada Enterprise Community Infrastructure Improvement Act.

Sec. 2. As used in sections 1 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. "Advisory Board" means the Southern Nevada Enterprise Community Advisory Board created pursuant to section 8 of this act.

Sec. 4. (Deleted by amendment.)

Sec. 5. "Community" means the Southern Nevada Enterprise Community, nine census tracts designated by President William Jefferson Clinton on December 21, 1994.

Sec. 6. "Infrastructure" means publicly owned or publicly supported facilities that are necessary or desirable to support intense habitation within a region, including, without limitation, parks, roads, schools, libraries, community centers, police and fire protection, sanitary sewers, facilities for mass transit and facilities for the conveyance of water and the treatment of wastewater.

Sec. 7. "Project" means the Southern Nevada Enterprise Community Improvement Project developed pursuant to section 11 of this act.

Sec. 8. 1. The Southern Nevada Enterprise Community Advisory Board is hereby created.

2. The Advisory Board consists of nine members, appointed in consultation with residents of the Community, as follows:

(a) One member of the Nevada Congressional Delegation selected from among its membership or his designee;

(b) ~~One member of the Nevada Legislature who represents the Community or his designee;~~ One member of the Nevada Legislature who

(c) One member of the Clark County Board of County Commissioners selected from among its membership or his designee;

(d) One member of the Las Vegas City Council from among its membership or his designee;

(e) One member of the North Las Vegas City Council from among its membership or his designee;

(f) Two residents of the Community, recommended and selected jointly by the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council;

(g) A representative of the private sector appointed by the Chamber of Commerce established in the Community; and

(h) A representative of the nonprofit charitable, educational and religious organizations in the Community, recommended and selected jointly by the

Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council.

3. Each member of the Advisory Board serves for a term of 3 years. A vacancy on the Advisory Board must be filled in the same manner as the original appointment. A member may be reappointed to the Advisory Board.

4. The members of the Advisory Board shall elect a Chairman and Vice Chairman by majority vote. After the initial election, the Chairman and Vice Chairman shall hold office for a term of 1 year beginning on August 1 of each year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Advisory Board shall elect a Chairman or Vice Chairman, as appropriate, from among its members for the remainder of the unexpired term.

5. The City of North Las Vegas shall provide administrative support for the Advisory Board.

Sec. 9. The primary purposes of the Advisory Board are to:

1. Advise the governmental entities that have members on the Advisory Board with respect to the Project; and

2. Ensure that the needs and opinions of the residents of the Community are reflected adequately by the Project.

Sec. 10. (Deleted by amendment.)

Sec. 11. 1. On or before January 31, 2008, the Advisory Board shall prepare a written plan to carry out the Project to address the needs and issues of the Community.

2. The Advisory Board shall, within 120 days after preparing the written plan:

(a) Hold at least two public hearings on the written plan, each of which must be preceded by at least 30 days' notice within the Community; and

(b) Approve or reject the written plan based on input from the Community received at the public hearings.

3. A written plan adopted by the Advisory Board must:

(a) Set forth an adequate framework for carrying out the Project;

(b) Set forth a reasonable period in which to accomplish the goals of the Project; and

(c) Incorporate each of the required elements of the Project, as set forth in section 12 of this act.

4. If the Advisory Board rejects the written plan, the Advisory Board shall:

(a) Provide to the appropriate officers of the governmental entities that have members on the Advisory Board a written explanation of its reasons for the rejection; and

(b) Prepare a revised written plan and repeat the notice and hearings required by subsection 2 before approving or rejecting the revised written plan.

Sec. 12. The Project must include, without limitation, goals, objectives and policies relating to, and feasible timeframes for achieving:

1. The construction, repair and refurbishment of streets, buildings and other facilities as necessary to attract and maintain the viability of successful businesses within the Community;

2. The incorporation within the Community of open space, facilities for recreation, facilities for medical care and other measures as necessary to ensure that the Community develops with mixed uses;

3. The eradication of brownfields, the rehabilitation of condemned properties and the removal of structures and facilities that create a disincentive for development; and

4. The identification of sources of money to carry out the Project.

Sec. 13. The Advisory Board may accept any gifts, grants or donations for the purpose of preparing, developing and carrying out the Project.

Sec. 14. On or before February 1, 2009, the Advisory Board shall submit to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature a report that summarizes the activities of the Advisory Board during the period between the effective date of this act and December 31, 2008.

Sec. 15. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 16. This act becomes effective upon passage and approval.

Amendment No. 750.

"SUMMARY—~~[Requires the Southern Nevada Enterprise Community Advisory Board to develop a project to make certain improvements to infrastructure in and near]~~ Makes various changes relating to the Southern Nevada Enterprise Community. (BDR S-1315)"

"AN ACT relating to ~~[the Southern Nevada Enterprise Community;]~~ economic development; requiring the Southern Nevada Enterprise Community Advisory Board to develop a project to make certain improvements to infrastructure in and near the Community; extending the temporary tax incentive for locating or expanding businesses that are or will become grocery stores within the Community; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill enacts the Southern Nevada Enterprise Community Infrastructure Improvement Act and requires the Southern Nevada Enterprise Community Advisory Board to develop a project to make certain improvements to infrastructure in and near the Southern Nevada Enterprise Community. This bill also extends the temporary tax incentive for locating or expanding businesses that are or will become grocery stores within the Southern Nevada Enterprise Community. (Chapter 198, Statutes of Nevada 2005, p. 639)

WHEREAS, On December 21, 1994, President William Jefferson Clinton designated nine census tracts in the urban core of the Las Vegas Valley as an "enterprise community"; and

WHEREAS, The designation was accompanied by an award of \$2,950,000 in Title XX funds to be used for projects in the enterprise community; and

WHEREAS, The Southern Nevada Enterprise Community so created includes the target areas of West Las Vegas, East Las Vegas, Meadows Village and North Las Vegas; and

WHEREAS, The Southern Nevada Enterprise Community involves a partnership among the cities of Las Vegas and North Las Vegas, and Clark County, working together to harness resources from the public, private and nonprofit sectors to provide programs, services and facilities to the target areas; and

WHEREAS, The empowerment of persons and neighborhoods within the Southern Nevada Enterprise Community includes "weed and seed" strategies to "weed" out violence, gangs, drug trafficking and drug-related crime, and to "seed" neighborhoods with social services and economic revitalization; and

WHEREAS, Efforts to revitalize neighborhoods economically, to be successful, require a certain minimum level of "infrastructure" in the form of the basic facilities, services and installations needed for the proper functioning of a community; now, therefore,

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

Section 1. This act may be cited as the Southern Nevada Enterprise Community Infrastructure Improvement Act.

Sec. 2. As used in sections 1 to ~~13~~ 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 3. "Advisory Board" means the Southern Nevada Enterprise Community Advisory Board created pursuant to section 8 of this act.

Sec. 4. (Deleted by amendment.)

Sec. 5. "Community" means the Southern Nevada Enterprise Community, nine census tracts designated by President William Jefferson Clinton on December 21, 1994.

Sec. 6. "Infrastructure" means publicly owned or publicly supported facilities that are necessary or desirable to support intense habitation within a region, including, without limitation, parks, roads, schools, libraries, community centers, police and fire protection, sanitary sewers, facilities for mass transit and facilities for the conveyance of water and the treatment of wastewater.

Sec. 7. "Project" means the Southern Nevada Enterprise Community Improvement Project developed pursuant to section 11 of this act.

Sec. 8. 1. The Southern Nevada Enterprise Community Advisory Board is hereby created.

2. The Advisory Board consists of nine members, appointed in consultation with residents of the Community, as follows:

(a) One member of the Nevada Congressional Delegation selected from among its membership or his designee;

(b) One member of the Nevada Legislature who represents the Community or his designee;

(c) One member of the Clark County Board of County Commissioners selected from among its membership or his designee;

(d) One member of the Las Vegas City Council from among its membership or his designee;

(e) One member of the North Las Vegas City Council from among its membership or his designee;

(f) Two residents of the Community, recommended and selected jointly by the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council;

(g) A representative of the private sector appointed by the Chamber of Commerce established in the Community; and

(h) A representative of the nonprofit charitable, educational and religious organizations in the Community, recommended and selected jointly by the Clark County Board of County Commissioners, the Las Vegas City Council and the North Las Vegas City Council.

3. Each member of the Advisory Board serves for a term of 3 years. A vacancy on the Advisory Board must be filled in the same manner as the original appointment. A member may be reappointed to the Advisory Board.

4. The members of the Advisory Board shall elect a Chairman and Vice Chairman by majority vote. After the initial election, the Chairman and Vice Chairman shall hold office for a term of 1 year beginning on August 1 of each year. If a vacancy occurs in the chairmanship or vice chairmanship, the members of the Advisory Board shall elect a Chairman or Vice Chairman, as appropriate, from among its members for the remainder of the unexpired term.

5. The City of North Las Vegas shall provide administrative support for the Advisory Board.

Sec. 9. The primary purposes of the Advisory Board are to:

1. Advise the governmental entities that have members on the Advisory Board with respect to the Project; and

2. Ensure that the needs and opinions of the residents of the Community are reflected adequately by the Project.

Sec. 10. (Deleted by amendment.)

Sec. 11. 1. On or before January 31, 2008, the Advisory Board shall prepare a written plan to carry out the Project to address the needs and issues of the Community.

2. The Advisory Board shall, within 120 days after preparing the written plan:

(a) Hold at least two public hearings on the written plan, each of which must be preceded by at least 30 days' notice within the Community; and

(b) Approve or reject the written plan based on input from the Community received at the public hearings.

3. A written plan adopted by the Advisory Board must:

(a) Set forth an adequate framework for carrying out the Project;

(b) Set forth a reasonable period in which to accomplish the goals of the Project; and

(c) Incorporate each of the required elements of the Project, as set forth in section 12 of this act.

4. If the Advisory Board rejects the written plan, the Advisory Board shall:

(a) Provide to the appropriate officers of the governmental entities that have members on the Advisory Board a written explanation of its reasons for the rejection; and

(b) Prepare a revised written plan and repeat the notice and hearings required by subsection 2 before approving or rejecting the revised written plan.

Sec. 12. The Project must include, without limitation, goals, objectives and policies relating to, and feasible timeframes for achieving:

1. The construction, repair and refurbishment of streets, buildings and other facilities as necessary to attract and maintain the viability of successful businesses within the Community;

2. The incorporation within the Community of open space, facilities for recreation, facilities for medical care and other measures as necessary to ensure that the Community develops with mixed uses;

3. The eradication of brownfields, the rehabilitation of condemned properties and the removal of structures and facilities that create a disincentive for development; and

4. The identification of sources of money to carry out the Project.

Sec. 13. The Advisory Board may accept any gifts, grants or donations for the purpose of preparing, developing and carrying out the Project.

Sec. 14. On or before February 1, 2009, the Advisory Board shall submit to the Director of the Legislative Counsel Bureau for transmission to the 75th Session of the Nevada Legislature a report that summarizes the activities of the Advisory Board during the period between the effective date of this act and December 31, 2008.

Sec. 15. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 16. Section 6 of chapter 198, Statutes of Nevada 2005, at page 643, is hereby amended to read as follows:

Sec. 6. 1. A person who intends to locate a grocery store within the Southern Nevada Enterprise Community established pursuant to 24 C.F.R. Part 597 during Fiscal Year 2004-2005, ~~for~~ 2005-2006, 2006-2007, 2007-2008 or 2008-2009 may submit a request to the governing body of the county, city or town in which the grocery store would operate for endorsement of an application by the person to the

Commission on Economic Development for a partial abatement of one or more of the taxes imposed pursuant to chapter 361 or 374 of NRS. The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business would operate. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission. The Commission shall approve the application if the Commission makes the following determinations:

(a) The applicant has executed an agreement with the Commission which states that the grocery store will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4:

(1) Commence operation and continue in operation in the Southern Nevada Enterprise Community established pursuant to 24 C.F.R. Part 597 for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

↪ The agreement must bind successors in interest of the grocery store for the specified period.

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

(c) The applicant invested or commits to invest a minimum of \$500,000 in capital.

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

(a) The Department of Taxation;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer of the county in which the grocery store will be located.

5. The Commission on Economic Development may adopt such regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

6. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

7. As used in this section:

(a) "Grocery store" means a business selling at retail groceries, including, without limitation, food for human consumption, articles used in the preparation of food, household supplies, dairy products, meat and produce, and having more than 10,000 square feet of floor space available to the public.

(b) "Selling at retail" has the meaning ascribed to it in NRS 372.050.

Sec. 17. Section 7 of chapter 198, Statutes of Nevada 2005, at page 644, is hereby amended to read as follows:

Sec. 7. 1. A person who intends to expand a grocery store or expand a business to become a grocery store within the Southern Nevada Enterprise Community established pursuant to 24 C.F.R. Part 597 during Fiscal Year 2004-2005, ~~for~~ 2005-2006, 2006-2007, 2007-2008 or 2008-2009 may submit a request to the governing body of the county, city or town in which the business operates for endorsement of an application by the person to the Commission on Economic Development for a partial abatement of the taxes imposed on capital equipment pursuant to chapter 374 of NRS. The governing body of the county, city or town shall provide notice of the request to the board of trustees of the school district in which the business operates. The notice must set forth the date, time and location of the hearing at which the governing body will consider whether to endorse the application.

2. The governing body of a county, city or town shall develop procedures for:

(a) Evaluating whether such an abatement would be beneficial for the economic development of the county, city or town.

(b) Issuing a certificate of endorsement for an application for such an abatement that is found to be beneficial for the economic development of the county, city or town.

3. A person whose application has been endorsed by the governing body of the county, city or town, as applicable, pursuant to this section may submit the application to the Commission. The Commission shall approve the application if the Commission makes the following determinations:

(a) The applicant has executed an agreement with the Commission which states that the grocery store will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4:

(1) Continue in operation in the Southern Nevada Enterprise Community established pursuant to 24 C.F.R. Part 597 for a period specified by the Commission, which must be at least 5 years; and

(2) Continue to meet the eligibility requirements set forth in this subsection.

↪ The agreement must bind successors in interest of the grocery store for the specified period.

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

(c) The applicant invested or commits to invest a minimum of \$250,000 in capital equipment.

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

(a) The Department of Taxation; and

(b) The Nevada Tax Commission.

5. The Commission on Economic Development may adopt such regulations as the Commission determines to be necessary or advisable to carry out the provisions of this section.

6. An applicant for an abatement who is aggrieved by a final decision of the Commission on Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

7. As used in this section:

(a) "Grocery store" means a business selling at retail groceries, including, without limitation, food for human consumption, articles used in the preparation of food, household supplies, dairy products, meat and produce, and having more than 10,000 square feet of floor space available to the public.

(b) "Selling at retail" has the meaning ascribed to it in NRS 372.050.

Sec. 18. Section 8 of chapter 198, Statutes of Nevada 2005, at page 646, is hereby amended to read as follows:

Sec. 8. During the Fiscal Years ~~2005-2006 and~~ 2006-2007, 2007-2008 and 2008-2009, the Commission on Economic Development shall, until the Commission has granted \$1,000,000 in partial abatements pursuant to sections 2, 3, 6 and 7 of this act, give priority to and expedite the processing of applications received by the Commission pursuant to section 6 or 7 of this act.

~~[Sec. 16.]~~ Sec. 19. This act becomes effective upon passage and approval.

Senator Hardy moved that the Senate do not concur in the Assembly amendments to Senate Bill No. 352.

Remarks by Senator Hardy.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 432.

The following Assembly amendment was read:

Amendment No. 723.

"SUMMARY—Directs the Legislative Committee on Health Care to appoint a subcommittee to conduct a review concerning alternative and complementary integrative medicine, homeopathic medicine and nonembryonic stem cells and eliminates the Nevada Institutional Review Board. (BDR ~~[S 694]~~ 54-694)"

"AN ACT relating to health; eliminating the Nevada Institutional Review Board; directing the Legislative Committee on Health Care to appoint a subcommittee to conduct a review concerning alternative and complementary integrative medicine, homeopathic medicine and the Nevada Institutional Review Board; use of nonembryonic stem cells in bioregenerative medical technology; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs the practice of homeopathic medicine and the operation of the Nevada Institutional Review Board. (Chapter 630A of NRS) Sections 1-4 of this bill eliminate the Nevada Institutional Review Board.

The Legislative Committee on Health Care is a permanent statutory committee of Legislators that meets during the interim between legislative sessions to study various issues relating to health care. (NRS 439B.200-439B.240) ~~[This bill requires]~~ Section 5 of this bill requires the Committee to appoint a subcommittee to review issues relating to alternative and complementary integrative medicine, homeopathic medicine and the Nevada Institutional Review Board; use of nonembryonic stem cells in bioregenerative medical technology.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 630A.090 is hereby amended to read as follows:

630A.090 1. ~~[Except as otherwise provided in NRS 630A.800 to 630A.910, inclusive, this]~~ This chapter does not apply to:

(a) The practice of dentistry, chiropractic, Oriental medicine, podiatry, optometry, respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Licensed or certified nurses in the discharge of their duties as nurses.

(d) Homeopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to any physician licensed in this

State, and who are legally qualified to practice in the state or country where they reside.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in case of emergency.

(b) The domestic administration of family remedies.

4. This chapter does not authorize a homeopathic physician to practice medicine, including allopathic medicine, except as otherwise provided in NRS 630A.040.

Sec. 2. NRS 630A.155 is hereby amended to read as follows:

630A.155 The Board shall:

1. Regulate the practice of homeopathic medicine in this State and any activities that are within the scope of such practice, to protect the public health and safety and the general welfare of the people of this State.

2. Determine the qualifications of, and examine, applicants for licensure or certification pursuant to this chapter, and specify by regulation the methods to be used to check the background of such applicants.

3. License or certify those applicants it finds to be qualified.

4. Investigate and, if required, hear and decide in a manner consistent with the provisions of chapter 622A of NRS all complaints made against any homeopathic physician, advanced practitioner of homeopathy, homeopathic assistant or any agent or employee of any of them, or any facility where the primary practice is homeopathic medicine. If a complaint concerns a practice which is within the jurisdiction of another licensing board or any other possible violation of state law, the Board shall refer the complaint to the other licensing board.

~~5. Supervise the Nevada Institutional Review Board created by NRS 630A.865, including, without limitation, approving or denying the regulations adopted by the Nevada Institutional Review Board.~~

~~6.~~ Submit an annual report to the Legislature and make recommendations to the Legislature concerning the enactment of legislation relating to alternative and complementary integrative medicine, including, without limitation, homeopathic medicine.

Sec. 3. NRS 630A.800, 630A.815, 630A.825, 630A.835, 630A.855, 630A.865, 630A.870, 630A.875, 630A.880, 630A.900, 630A.905 and 630A.910 are hereby repealed.

Sec. 4. 1. The Nevada Institutional Review Board shall, not later than July 1, 2007:

(a) Return the unexpended portion of any grant, gift, appropriation or donation that was received by the Board subject to a condition that requires its return if it cannot be used to carry out the duties of the Board;

(b) Transfer any money that remains in any account maintained by the Nevada Institutional Review Board after complying with paragraph (a) to the Board of Homeopathic Medical Examiners; and

(c) Transfer all books, records, minutes, documents and other property of the Nevada Institutional Review Board to the Board of Homeopathic Medical Examiners.

2. Any regulations adopted by the Nevada Institutional Review Board, or by the Board of Homeopathic Medical Examiners concerning the Nevada Institutional Review Board, are void on July 1, 2007. The Legislative Counsel shall remove those regulations from the Nevada Administrative Code as soon as practicable after July 1, 2007.

3. Any contract entered into by the Nevada Institutional Review Board, or by the Board of Homeopathic Medical Examiners concerning the Nevada Institutional Review Board, including, without limitation, a contract for employment and a contract for the services of a person pursuant to NRS 284.013, that is not fully performed on July 1, 2007, is void.

4. If the Board of Homeopathic Medical Examiners has created a nonprofit organization pursuant to NRS 630A.875, including, without limitation, the NIRB Medical Foundation, the Board of Homeopathic Medical Examiners shall, not later than July 1, 2007, dissolve the nonprofit organization.

5. The Nevada Institutional Review Board shall cooperate with the Board of Homeopathic Medical Examiners to ensure that the provisions of this act are carried out in an orderly manner.

6. The terms of the members of the Nevada Institutional Review Board expire on July 1, 2007.

~~[Section 4.]~~ Sec. 5. 1. The Legislative Committee on Health Care shall appoint a subcommittee to review issues concerning alternative and complementary integrative medicine, homeopathic medicine and the ~~Nevada Institutional Review Board~~ use of nonembryonic stem cells in bioregenerative medical technology. The subcommittee must consist of:

(a) One member of the Legislative Committee on Health Care who is a member of the Senate appointed by the Chairman of that Committee;

(b) Two members of the Legislative Committee on Health Care who are members of the Assembly appointed by the Chairman of that Committee;

(c) Two members of the Senate Standing Committee on Commerce and Labor who served during the 74th Session of the Nevada Legislature appointed by the Chairman of that Committee; and

(d) One member of the Assembly Standing Committee on Commerce and Labor who served during the 74th Session of the Nevada Legislature appointed by the Chairman of that Committee.

2. The Chairman of the Legislative Committee on Health Care shall designate a member of the subcommittee to serve as chairman of the subcommittee.

3. The review must include, without limitation:

(a) A review of the status and operation of the Board of Homeopathic Medical Examiners ~~and the Nevada Institutional Review Board;~~

~~(b) An examination of the advisability of making the Nevada Institutional Review Board an independent body;~~

~~(c) ;~~

(b) An examination of the practice of *alternative and* complementary integrative medicine, including:

(1) The scope of the practice;

(2) Any laws governing the practice; and

(3) The importance, benefits and value of the practice to this State and the residents of and visitors to this State; ~~and~~

~~((d))~~ (c) An examination of the potential for and advisability of an independent board and statutory structure to govern the practice of *alternative and* complementary integrative medicine ~~;~~ *and*

(d) An examination of the use of nonembryonic stem cells in bioregenerative medical technology, including, without limitation, methods to encourage the performance in this State of research and development concerning the use of nonembryonic stem cells.

4. Not later than June 30, 2008, the subcommittee shall submit a report of the results of its review and any recommendations for legislation to the Legislative Committee on Health Care. The Legislative Committee on Health Care shall submit the report of the results of the review and any recommendations for legislation to the 75th Session of the Nevada Legislature.

~~{Sec. 2.}~~ *Sec. 6. 1. This ~~act becomes~~ section and section 4 of this act become effective upon passage and approval.*

2. Sections 1, 2, 3 and 5 of this act become effective on July 1, 2007.

LEADLINES OF REPEALED SECTIONS

630A.800 Definitions.

630A.815 "Practitioner" defined.

630A.825 "Research study" defined.

630A.835 "Researcher" defined.

630A.855 Applicability.

630A.865 Creation; supervision; appointment of members; period of service; vacancies; per diem allowance and travel expenses; quorum; officers; meetings; rules of procedure.

630A.870 Oath.

630A.875 Funding of Review Board; limitations.

630A.880 Deposit and use of money received by Review Board.

630A.900 Adoption of regulations.

630A.905 Administrative powers and duties.

630A.910 Requirements governing researchers and research studies.

Senator Townsend moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 432.

Remarks by Senator Townsend.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 483.

The following Assembly amendment was read:

Amendment No. 837.

"SUMMARY—Makes various changes to provisions relating to business. (BDR 7-868)"

"AN ACT relating to business; revising provisions relating to corporations; revising the provisions relating to the reinstatement, renewal or revival of certain business associations; revising provisions relating to limited-liability companies; revising the applicability of the Uniform Partnership Act (1997); revising provisions relating to professional corporations and associations; revising provisions relating to the exemption of certain property of judgment debtors from attachment or execution; requiring financing statements of a transmitting utility to be filed in the Office of the Secretary of State; revising provisions relating to a trustee's power of sale involving real property; making various other changes relating to business; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill expands a corporation's powers to include the specific renunciation of certain business opportunities. (NRS 78.070) Section 2 of this bill clarifies existing law to specify that a board of directors may authorize a transaction by written consent even if the votes of common and interested directors are not counted and regardless of whether the members whose votes are not counted join or abstain from joining in such authorization. (NRS 78.140)

Existing law sets forth provisions relating to the reinstatement, renewal or revival of certain business associations. (NRS 78.180, 78.740, 80.170, 82.5237, 82.546, 84.150, 86.276, 86.5467, 86.580, 87.530, 87.5435, 88.410, 88.594, 88A.650, 88A.737, 89.256) Sections 3, 10-14, 17, 21, 22, 28-33 and 44 of this bill provide that a reinstatement, renewal or revival of certain business associations relate back to the date of forfeiture.

Section 5 of this bill prohibits a corporation from issuing stock certificates in bearer form. (NRS 78.235)

Existing law requires written consent to be signed by all members of a board or committee of a corporation before taking certain actions. (NRS 78.315) Section 6 of this bill establishes provisions exempting certain directors from signing such written consent.

Existing law requires directors of every corporation to be elected by a plurality of votes cast at the annual stockholders' meeting. (NRS 78.330) Section 8 of this bill allows the articles of incorporation or bylaws to require more than a plurality of the vote.

Section 15 of this bill establishes provisions allowing the dissolution of a limited-liability company before the commencement of any business. Section 16 of this bill provides limitations on liability by providing that a limited-liability company is an entity distinct from its managers and members. (NRS 86.201)

Existing law establishes provisions relating to the operating agreement of a limited-liability company. (NRS 86.286) Section 18 of this bill provides that an operating agreement adopted after the filing of the articles of incorporation or after the formation of the limited-liability company may be enforced against the limited-liability company whether or not it assents to the agreement.

~~Section 19 of this bill limits the liability of members and managers of a company by providing that the failure of a limited liability company to observe certain formalities does not create liability for its members or managers. (NRS 86.371)~~ Section 20 of this bill expands the class of members which may bring an action on behalf of a limited-liability company to include noneconomic members. (NRS 86.483) Section 26 of this bill revises the provisions concerning applicability of the Uniform Partnership Act (1997). (NRS 87.025, 87.4314) Section 27 of this bill revises the filing requirements for a registered limited-liability partnership to exclude the filing of a statement of the professional service rendered by the partnership. (NRS 87.440) Sections 34-43 of this bill revise the provisions relating to professional corporations and associations to reflect the inclusion of all professional entities and the formation of professional limited-liability companies. (NRS 89.020, 89.025, 89.030-89.110).

Existing law establishes the right of shareholders to dissent from corporate actions. (NRS 92A.380) Section 45 of this bill prohibits a dissenting shareholder to vote his shares or to receive certain dividends or distributions after his dissent.

Existing law exempts certain property of a judgment debtor from attachment or execution. (NRS 21.075, 21.090, 31.045) Sections 46-48 of this bill limit the exemption of payments received pursuant to the federal Social Security Act to such payments made for the individual support of the judgment debtor.

Existing law provides that a transmitting utility may file a financing statement in the Office of the Secretary of State or the county recorder of the appropriate county. (NRS 104.9501) Section 49 of this bill no longer allows such financing statements to be filed in a county recorder's office.

Existing law sets forth certain requirements relating to a trustee's power of sale involving real property. (NRS 107.080) Section 50 of this bill provides that, except under certain circumstances, for a sale to be declared void within 90 days after the date of the sale, an action must be commenced in the county where the sale took place and, within 30 days after commencing the action, notice of the action must be recorded in the office of the county recorder.

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

Section 1. NRS 78.070 is hereby amended to read as follows:

78.070 Subject to such limitations, if any, as may be contained in its articles of incorporation, every corporation has the following powers:

1. To borrow money and contract debts when necessary for the transaction of its business, or for the exercise of its corporate rights, privileges or franchises, or for any other lawful purpose of its incorporation and to issue bonds, promissory notes, bills of exchange, debentures, and other obligations and evidences of indebtedness, payable at a specified time or times, or payable upon the happening of a specified event or events, whether secured by mortgage, pledge or other security, or unsecured, for money borrowed, or in payment for property purchased or acquired, or for any other lawful object.

2. To guarantee, purchase, hold, take, obtain, receive, subscribe for, own, use, dispose of, sell, exchange, lease, lend, assign, mortgage, pledge, or otherwise acquire, transfer or deal in or with bonds or obligations of, or shares, securities or interests in or issued by, any person, government, governmental agency or political subdivision of government, and to exercise all the rights, powers and privileges of ownership of such an interest, including the right to vote, if any.

3. To purchase, hold, sell, pledge and transfer shares of its own stock, and use therefor its property or money.

4. To conduct business, have one or more offices, and hold, purchase, lease, mortgage, convey and take by devise or bequest real and personal property in this State, and in any of the several states, territories, possessions and dependencies of the United States, the District of Columbia, Puerto Rico and any foreign countries.

5. To do everything necessary and proper for the accomplishment of the objects enumerated in its articles of incorporation or necessary or incidental to the protection and benefit of the corporation, and, in general, to carry on any lawful business necessary or incidental to the attainment of the objects of the corporation, whether or not the business is similar in nature to the objects set forth in the articles of incorporation, except that:

(a) A corporation created under the provisions of this chapter does not possess the power of issuing bills, notes or other evidences of debt for circulation of money; and

(b) This chapter does not authorize the formation of banking corporations to issue or circulate money or currency within this State, or outside of this State, or at all, except the federal currency, or the notes of banks authorized under the laws of the United States.

6. To make donations for the public welfare or for charitable, scientific or educational purposes.

7. To enter into any relationship with another person in connection with any lawful activities.

8. *To renounce in its articles of incorporation or by action by the board of directors any interest or expectancy to participate in specified business opportunities or specified classes or categories of business opportunities that are presented to the corporation or one or more of its officers, directors or stockholders.*

Sec. 2. NRS 78.140 is hereby amended to read as follows:

78.140 1. A contract or other transaction is not void or voidable solely because:

(a) The contract or transaction is between a corporation and:

(1) One or more of its directors or officers; or

(2) Another corporation, firm or association in which one or more of its directors or officers are directors or officers or are financially interested;

(b) A common or interested director or officer:

(1) Is present at the meeting of the board of directors or a committee thereof which authorizes or approves the contract or transaction; or

(2) Joins in the signing of a written consent which authorizes or approves the contract or transaction pursuant to subsection 2 of NRS 78.315; or

(c) The vote or votes of a common or interested director are counted for the purpose of authorizing or approving the contract or transaction,

↪ if one of the circumstances specified in subsection 2 exists.

2. The circumstances in which a contract or other transaction is not void or voidable pursuant to subsection 1 are:

(a) The fact of the common directorship, office or financial interest is known to the board of directors or committee, and the board or committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of the common or interested director or directors.

(b) The fact of the common directorship, office or financial interest is known to the stockholders, and they approve or ratify the contract or transaction in good faith by a majority vote of stockholders holding a majority of the voting power. The votes of the common or interested directors or officers must be counted in any such vote of stockholders.

(c) The fact of the common directorship, office or financial interest is not known to the director or officer at the time the transaction is brought before the board of directors of the corporation for action.

(d) The contract or transaction is fair as to the corporation at the time it is authorized or approved.

3. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or a committee thereof which authorizes, approves or ratifies a contract or transaction, and if the votes of the common or interested directors are not counted at the meeting, then a majority of the disinterested directors may authorize, approve or ratify a contract or transaction.

4. *The fact that the vote or votes of the common or interested director or directors are not counted for purposes of subsection 2 does not prohibit any authorization, approval or ratification of a contract or transaction to be given by written consent pursuant to subsection 2 of NRS 78.315, regardless of whether the common or interested director signs such written consent or abstains in writing from providing consent.*

5. Unless otherwise provided in the articles of incorporation or the bylaws, the board of directors, without regard to personal interest, may establish the compensation of directors for services in any capacity. If the board of directors establishes the compensation of directors pursuant to this subsection, such compensation is presumed to be fair to the corporation unless proven unfair by a preponderance of the evidence.

Sec. 3. NRS 78.180 is hereby amended to read as follows:

78.180 1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate a corporation which has forfeited or which forfeits its right to transact business pursuant to the provisions of this chapter and shall restore to the corporation its right to carry on business in this State, and to exercise its corporate privileges and immunities, if it:

(a) Files with the Secretary of State:

- (1) The list required by NRS 78.150;
- (2) The statement required by NRS 78.153, if applicable; and
- (3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

- (1) The filing fee and penalty set forth in NRS 78.150 and 78.170 for each year or portion thereof during which it failed to file each required annual list in a timely manner;
- (2) The fee set forth in NRS 78.153, if applicable; and
- (3) A fee of \$300 for reinstatement.

2. When the Secretary of State reinstates the corporation, he shall issue to the corporation a certificate of reinstatement if the corporation:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to subsection 8 of NRS 78.785.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation of the charter occurred only by reason of failure to pay the fees and penalties.

4. If a corporate charter has been revoked pursuant to the provisions of this chapter and has remained revoked for a period of 5 consecutive years, the charter must not be reinstated.

5. *Except as otherwise provided in NRS 78.185, a reinstatement pursuant to this section relates back to the date on which the corporation forfeited its right to transact business under the provisions of this chapter and reinstates the corporation's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 4. NRS 78.185 is hereby amended to read as follows:

78.185 1. Except as otherwise provided in subsection 2, if a corporation applies to reinstate or revive its charter but its name has been legally reserved or acquired by another artificial person formed, organized, registered or qualified pursuant to the provisions of this title whose name is on file with the Office of the Secretary of State or reserved in the Office of the Secretary of State pursuant to the provisions of this title, the corporation

shall in its application for reinstatement submit in writing to the Secretary of State some other name under which it desires its corporate existence to be reinstated or revived. If that name is distinguishable from all other names reserved or otherwise on file, the Secretary of State shall ~~reinstate~~ *reinstate* the corporation under that new name. Upon the issuance of a certificate of reinstatement or revival under that new name, the articles of incorporation of the applying corporation shall be deemed to reflect the new name without the corporation having to comply with the provisions of NRS 78.385, 78.390 or 78.403.

2. If the applying corporation submits the written, acknowledged consent of the artificial person having a name, or the person who has reserved a name, which is not distinguishable from the old name of the applying corporation or a new name it has submitted, it may be reinstated or revived under that name.

3. For the purposes of this section, a proposed name is not distinguishable from a name on file or reserved name solely because one or the other contains distinctive lettering, a distinctive mark, a trademark or a trade name, or any combination of these.

4. The Secretary of State may adopt regulations that interpret the requirements of this section.

Sec. 5. NRS 78.235 is hereby amended to read as follows:

78.235 1. Except as otherwise provided in subsection 4, every stockholder is entitled to have a certificate, signed by officers or agents designated by the corporation for the purpose, certifying the number of shares ~~owned by him~~ in the corporation ~~[-] owned by the stockholder~~. *A corporation has no power to issue a certificate in bearer form, and any such certificate that is issued is void and of no force or effect.*

2. Whenever any certificate is countersigned or otherwise authenticated by a transfer agent or transfer clerk, and by a registrar, then a facsimile of the signatures of the officers or agents, the transfer agent or transfer clerk or the registrar of the corporation may be printed or lithographed upon the certificate in lieu of the actual signatures. If a corporation uses facsimile signatures of its officers and agents on its stock certificates, it cannot act as registrar of its own stock, but its transfer agent and registrar may be identical if the institution acting in those dual capacities countersigns or otherwise authenticates any stock certificates in both capacities.

3. If any officer or officers who have signed, or whose facsimile signature or signatures have been used on, any certificate or certificates for stock cease to be an officer or officers of the corporation, whether because of death, resignation or other reason, before the certificate or certificates have been delivered by the corporation, the certificate or certificates may nevertheless be adopted by the corporation and be issued and delivered as though the person or persons who signed the certificate or certificates, or whose facsimile signature or signatures have been used thereon, had not ceased to be an officer or officers of the corporation.

4. Unless otherwise provided in the articles of incorporation or bylaws, the board of directors may authorize the issuance of uncertificated shares of some or all of the shares of any or all of its classes or series. The issuance of uncertificated shares has no effect on existing certificates for shares until surrendered to the corporation, or on the respective rights and obligations of the stockholders. Unless otherwise provided by a specific statute, the rights and obligations of stockholders are identical whether or not their shares of stock are represented by certificates.

5. Within a reasonable time after the issuance or transfer of shares without certificates, the corporation shall send the stockholder a written statement containing the information required on the certificates pursuant to subsection 1. At least annually thereafter, the corporation shall provide to its stockholders of record, a written statement confirming the information contained in the informational statement previously sent pursuant to this subsection.

6. Unless otherwise provided in the articles of incorporation or bylaws, a corporation may issue a new certificate of stock or, if authorized by the board of directors pursuant to subsection 4, uncertificated shares in place of a certificate previously issued by it and alleged to have been lost, stolen or destroyed. A corporation may require an owner or legal representative of an owner of a lost, stolen or destroyed certificate to give the corporation a bond or other security sufficient to indemnify it against any claim that may be made against it for the alleged loss, theft or destruction of a certificate, or the issuance of a new certificate or uncertificated shares.

Sec. 6. NRS 78.315 is hereby amended to read as follows:

78.315 1. Unless the articles of incorporation or the bylaws provide for a greater or lesser proportion, a majority of the board of directors of the corporation then in office, at a meeting duly assembled, is necessary to constitute a quorum for the transaction of business, and the act of directors holding a majority of the voting power of the directors, present at a meeting at which a quorum is present, is the act of the board of directors.

2. Unless otherwise restricted by the articles of incorporation or bylaws, any action required or permitted to be taken at a meeting of the board of directors or of a committee thereof may be taken without a meeting if, before or after the action, a written consent thereto is signed by all the members of the board or of the committee ~~[-]~~, *except that such written consent is not required to be signed by:*

(a) A common or interested director who abstains in writing from providing consent to the action. If a common or interested director abstains in writing from providing consent:

(1) The fact of the common directorship, office or financial interest must be known to the board of directors or committee before a written consent is signed by all the members of the board of the committee.

(2) Such fact must be described in the written consent.

(3) The board of directors or committee must approve, authorize or ratify the action in good faith by unanimous consent without counting the abstention of the common or interested director.

(b) A director who is a party to an action, suit or proceeding who abstains in writing from providing consent to the action of the board of directors or committee. If a director who is a party to an action, suit or proceeding abstains in writing from providing consent on the basis that he is a party to an action, suit or proceeding, the board of directors or committee must:

(1) Make a determination pursuant to NRS 78.751 that indemnification of the director is proper under the circumstances.

(2) Approve, authorize or ratify the action of the board of directors or committee in good faith by unanimous consent without counting the abstention of the director who is a party to an action, suit or proceeding.

3. Unless otherwise restricted by the articles of incorporation or bylaws, members of the board of directors or the governing body of any corporation, or of any committee designated by such board or body, may participate in a meeting of the board, body or committee by means of a telephone conference or similar methods of communication by which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection constitutes presence in person at the meeting.

Sec. 7. NRS 78.320 is hereby amended to read as follows:

78.320 1. Unless this chapter, the articles of incorporation or the bylaws provide for different proportions:

(a) A majority of the voting power, which includes the voting power that is present in person or by proxy, regardless of whether the proxy has authority to vote on all matters, constitutes a quorum for the transaction of business; and

(b) Action by the stockholders on a matter other than the election of directors is approved if the number of votes cast in favor of the action exceeds the number of votes cast in opposition to the action.

2. Unless otherwise provided in the articles of incorporation or the bylaws, any action required or permitted to be taken at a meeting of the stockholders may be taken without a meeting if, before or after the action, a written consent thereto is signed by stockholders holding at least a majority of the voting power, except that if a different proportion of voting power is required for such an action at a meeting, then that proportion of written consents is required.

3. In no instance where action is authorized by written consent need a meeting of stockholders be called or notice given.

4. Unless otherwise restricted by the articles of incorporation or bylaws, stockholders may participate in a meeting of stockholders by means of a telephone conference or similar methods of communication by which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this subsection constitutes presence in person at the meeting.

5. Unless ~~otherwise provided in~~ this chapter, the articles of incorporation or the bylaws ~~[-]~~ *provide for different proportions*, if voting by a class or series of stockholders is permitted or required ~~[-a]~~ :

(a) A majority of the voting power of the class or series that is present in person or by proxy, regardless of whether the proxy has authority to vote on all matters, constitutes a quorum for the transaction of business ~~[-]~~ ; and

(b) An act by the stockholders of each class or series is approved if a majority of the voting power of a quorum of the class or series votes for the action.

Sec. 8. NRS 78.330 is hereby amended to read as follows:

78.330 1. Unless elected pursuant to NRS 78.320, *or unless the articles of incorporation or the bylaws require more than a plurality of the votes cast*, directors of every corporation must be elected at the annual meeting of the stockholders by a plurality of the votes cast at the election. Unless otherwise provided in this chapter or in the bylaws, the board of directors has the authority to set the date, time and place for the annual meeting of the stockholders. If for any reason directors are not elected pursuant to NRS 78.320 or at the annual meeting of the stockholders, they may be elected at any special meeting of the stockholders which is called and held for that purpose. Unless otherwise provided in the articles of incorporation or bylaws, each director holds office after the expiration of his term until his successor is elected and qualified, or until he resigns or is removed.

2. The articles of incorporation or the bylaws may provide for the classification of directors as to the duration of their respective terms of office or as to their election by one or more authorized classes or series of shares, but at least one-fourth in number of the directors of every corporation must be elected annually. If an amendment reclassifying the directors would otherwise increase the term of a director, unless the amendment is to the articles of incorporation and otherwise provides, the term of each incumbent director on the effective date of the amendment terminates on the date it would have terminated had there been no reclassification.

3. The articles of incorporation may provide that the voting power of individual directors or classes of directors may be greater than or less than that of any other individual directors or classes of directors, and the different voting powers may be stated in the articles of incorporation or may be dependent upon any fact or event that may be ascertained outside the articles of incorporation if the manner in which the fact or event may operate on those voting powers is stated in the articles of incorporation. If the articles of incorporation provide that any directors may have voting power greater than or less than other directors, every reference in this chapter to a majority or other proportion of directors shall be deemed to refer to a majority or other proportion of the voting power of all of the directors or classes of directors, as may be required by the articles of incorporation.

Sec. 9. NRS 78.565 is hereby amended to read as follows:

78.565 1. Unless otherwise provided in the articles of incorporation, every corporation may, by action taken at any meeting of its board of directors, sell, lease or exchange all of its property and assets, including its goodwill and its corporate franchises, upon such terms and conditions as its board of directors may approve, when and as authorized by the affirmative vote of stockholders holding stock in the corporation entitling them to exercise at least a majority of the voting power . ~~[given at a stockholders' meeting called for that purpose.]~~

2. Unless otherwise provided in the articles of incorporation, a vote of stockholders is not necessary:

(a) For a transfer of assets by way of mortgage, or in trust or in pledge to secure indebtedness of the corporation; or

(b) To abandon the sale, lease or exchange of assets.

Sec. 10. NRS 78.740 is hereby amended to read as follows:

78.740 1. Any corporation existing on or incorporated after April 1, 1925, desiring to renew or revive its corporate existence, upon complying with the provisions of this chapter, is and continues for the time stated in its certificate of renewal to be a corporation, and in addition to the rights, privileges and immunities conferred by its original charter, possesses and enjoys all the benefits of this chapter that are applicable to the nature of its business, and is subject to the restrictions and liabilities by this chapter imposed on such corporations.

2. *Except as otherwise provided in NRS 78.185, a renewal or revival pursuant to NRS 78.730 relates back to the date on which the corporation's charter expired or was revoked and renews or revives the corporation's charter and right to transact business as if such right had at all times remained in full force and effect.*

Sec. 11. NRS 80.170 is hereby amended to read as follows:

80.170 1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate a corporation which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the corporation its right to transact business in this State, and to exercise its corporate privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list as provided in NRS 80.110 and 80.140;

(2) The statement required by NRS 80.115, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 80.110 and 80.150 for each year or portion thereof that its right to transact business was forfeited;

(2) The fee set forth in NRS 80.115, if applicable; and

(3) A fee of \$300 for reinstatement.

2. When the Secretary of State reinstates the corporation, he shall issue to the corporation a certificate of reinstatement if the corporation:

- (a) Requests a certificate of reinstatement; and
- (b) Pays the required fees pursuant to subsection 8 of NRS 78.785.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a corporation to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right is not subject to reinstatement.

5. *Except as otherwise provided in NRS 80.175, a reinstatement pursuant to this section relates back to the date on which the corporation forfeited its right to transact business under the provisions of this chapter and reinstates the corporation's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 12. NRS 82.5237 is hereby amended to read as follows:

82.5237 1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate a foreign nonprofit corporation which has forfeited or which forfeits its right to transact business pursuant to the provisions of NRS 82.523 to 82.5239, inclusive, and restore to the foreign nonprofit corporation its right to transact business in this State, and to exercise its corporate privileges and immunities, if it:

- (a) Files with the Secretary of State a list as provided in NRS 82.523; and
- (b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 82.523 and 82.5235 for each year or portion thereof that its right to transact business was forfeited; and

(2) A fee of \$100 for reinstatement.

2. When the Secretary of State reinstates the foreign nonprofit corporation, he shall issue to the foreign nonprofit corporation a certificate of reinstatement if the foreign nonprofit corporation:

- (a) Requests a certificate of reinstatement; and
- (b) Pays the fees as provided in subsection 8 of NRS 78.785.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign nonprofit corporation to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right to transact business must not be reinstated.

5. *Except as otherwise provided in NRS 82.5239, a reinstatement pursuant to this section relates back to the date on which the foreign nonprofit corporation forfeited its right to transact business under the provisions of this chapter and reinstates the foreign nonprofit corporation's*

right to transact business as if such right had at all times remained in full force and effect.

Sec. 13. NRS 82.546 is hereby amended to read as follows:

82.546 1. Any corporation which did exist or is existing pursuant to the laws of this State may, upon complying with the provisions of NRS 78.150 and 82.193, procure a renewal or revival of its charter for any period, together with all the rights, franchises, privileges and immunities, and subject to all its existing and preexisting debts, duties and liabilities secured or imposed by its original charter and amendments thereto, or its existing charter, by filing:

(a) A certificate with the Secretary of State, which must set forth:

(1) The name of the corporation, which must be the name of the corporation at the time of the renewal or revival, or its name at the time its original charter expired.

(2) The name and street address of the lawfully designated resident agent of the filing corporation, and his mailing address if different from his street address.

(3) The date when the renewal or revival of the charter is to commence or be effective, which may be, in cases of a revival, before the date of the certificate.

(4) Whether or not the renewal or revival is to be perpetual, and, if not perpetual, the time for which the renewal or revival is to continue.

(5) That the corporation desiring to renew or revive its charter is, or has been, organized and carrying on the business authorized by its existing or original charter and amendments thereto, and desires to renew or continue through revival its existence pursuant to and subject to the provisions of this chapter.

(b) A list of its president, secretary and treasurer and all of its directors and their mailing or street addresses, either residence or business.

2. A corporation whose charter has not expired and is being renewed shall cause the certificate to be signed by an officer of the corporation. The certificate must be approved by a majority of the last-appointed surviving directors.

3. A corporation seeking to revive its original or amended charter shall cause the certificate to be signed by its president or vice president and secretary or assistant secretary. The signing and filing of the certificate must be approved unanimously by the last-appointed surviving directors of the corporation and must contain a recital that unanimous consent was secured. The corporation shall pay to the Secretary of State the fee required to establish a new corporation pursuant to the provisions of this chapter.

4. The filed certificate, or a copy thereof which has been certified under the hand and seal of the Secretary of State, must be received in all courts and places as prima facie evidence of the facts therein stated and of the existence and incorporation of the corporation named therein.

5. *Except as otherwise provided in NRS 78.185, a renewal or revival pursuant to this section relates back to the date on which the corporation's charter expired or was revoked and renews or revives the corporation's charter and right to transact business as if such right had at all times remained in full force and effect.*

Sec. 14. NRS 84.150 is hereby amended to read as follows:

84.150 1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate any corporation sole which has forfeited its right to transact business under the provisions of this chapter and restore the right to carry on business in this State and exercise its corporate privileges and immunities, if it:

(a) Files with the Secretary of State a certificate of acceptance of appointment signed by the resident agent of the corporation; and

(b) Pays to the Secretary of State:

(1) The filing fees and penalties set forth in this chapter for each year or portion thereof during which its charter has been revoked; and

(2) A fee of \$25 for reinstatement.

2. When the Secretary of State reinstates the corporation to its former rights, he shall:

(a) Immediately issue and deliver to the corporation a certificate of reinstatement authorizing it to transact business, as if the fees had been paid when due; and

(b) Upon demand, issue to the corporation a certified copy of the certificate of reinstatement.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation of its charter occurred only by reason of its failure to pay the fees and penalties.

4. If a corporate charter has been revoked pursuant to the provisions of this chapter and has remained revoked for 10 consecutive years, the charter must not be reinstated.

5. *A reinstatement pursuant to this section relates back to the date on which the corporation forfeited its right to transact business under the provisions of this chapter and reinstates the corporation's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 15. Chapter 86 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Before the commencement of business by any limited-liability company where management is vested in one or more managers and where no member's interest in the limited-liability company has been issued, at least two-thirds of the organizers or the managers of the limited-liability company may dissolve the limited-liability company by filing with the Secretary of State a certificate of dissolution to dissolve the limited-liability company.*

2. *A certificate of dissolution filed with the Secretary of State pursuant to subsection 1 must state that:*

(a) The management of the limited-liability company is vested in one or more managers;

(b) The limited-liability company has not commenced business; and

(c) No member's interest in the limited-liability company has been issued.

Sec. 16. NRS 86.201 is hereby amended to read as follows:

86.201 1. A limited-liability company is considered legally organized pursuant to this chapter upon:

(a) Filing the articles of organization with the Secretary of State or upon a later date specified in the articles of organization;

(b) Filing the certificate of acceptance of the resident agent with the Secretary of State; and

(c) Paying the required filing fees to the Secretary of State.

2. A limited-liability company must not transact business or incur indebtedness, except that which is incidental to its organization or to obtaining subscriptions for or payment of contributions, until the company is considered legally organized pursuant to subsection 1.

3. *A limited-liability company is an entity distinct from its managers and members.*

Sec. 17. NRS 86.276 is hereby amended to read as follows:

86.276 1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate any limited-liability company which has forfeited or which forfeits its right to transact business pursuant to the provisions of this chapter and shall restore to the company its right to carry on business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 86.263;

(2) The statement required by NRS 86.264, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 86.263 and 86.272 for each year or portion thereof during which it failed to file in a timely manner each required annual list;

(2) The fee set forth in NRS 86.264, if applicable; and

(3) A fee of \$300 for reinstatement.

2. When the Secretary of State reinstates the limited-liability company, he shall issue to the company a certificate of reinstatement if the limited-liability company:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 86.561.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation of the charter occurred only by reason of failure to pay the fees and penalties.

4. If a company's charter has been revoked pursuant to the provisions of this chapter and has remained revoked for a period of 5 consecutive years, the charter must not be reinstated.

5. *Except as otherwise provided in NRS 86.278, a reinstatement pursuant to this section relates back to the date on which the company forfeited its right to transact business under the provisions of this chapter and reinstates the company's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 18. NRS 86.286 is hereby amended to read as follows:

86.286 1. A limited-liability company may, but is not required to, adopt an operating agreement. An operating agreement may be adopted only by the unanimous vote or unanimous written consent of the members, or by the sole member, and the operating agreement must be in writing. Unless otherwise provided in the operating agreement, amendments to the agreement may be adopted only by the unanimous vote or unanimous written consent of the persons who are members at the time of amendment.

2. An operating agreement may be adopted before, after or at the time of the filing of the articles of organization and, whether entered into before, after or at the time of the filing, may become effective at the formation of the limited-liability company or at a later date specified in the operating agreement. If an operating agreement is adopted ~~before~~ :

(a) *Before the filing of the articles of organization or before the effective date of formation specified in the articles of organization, the operating agreement is not effective until the effective date of formation of the limited-liability company.*

(b) *After the filing of the articles of organization or after the effective date of formation specified in the articles of organization, the operating agreement binds the limited-liability company and may be enforced whether or not the limited-liability company assents to the operating agreement.*

3. An operating agreement may provide that a certificate of limited-liability company interest issued by the limited-liability company may evidence a member's interest in a limited-liability company.

Sec. 19. ~~NRS 86.371 is hereby amended to read as follows:~~

~~86.371 1. Unless otherwise provided in the articles of organization or an agreement signed by the member or manager to be charged, no member or manager of any limited liability company formed under the laws of this State is individually liable for the debts or liabilities of the company.~~

~~2. The failure of a limited liability company to observe any formality relating to the exercise of its powers or management of its activities is not a ground for imposing liability on a member or manager for the debts or liabilities of the limited liability company. (Deleted by amendment.)~~

Sec. 20. NRS 86.483 is hereby amended to read as follows:

86.483 A member, ~~when permitted~~ *including a noneconomic member unless otherwise prohibited* by the terms of the articles of organization or operating agreement, may bring an action in the right of a limited-liability

company to recover a judgment in its favor if managers or members with authority to do so have refused to bring the action or if an effort to cause those managers or members to bring the action is not likely to succeed.

Sec. 21. NRS 86.5467 is hereby amended to read as follows:

86.5467 1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate a foreign limited-liability company which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign limited-liability company its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

- (1) The list required by NRS 86.5461;
- (2) The statement required by NRS 86.5462, if applicable; and
- (3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

- (1) The filing fee and penalty set forth in NRS 86.5461 and 86.5465 for each year or portion thereof that its right to transact business was forfeited;
- (2) The fee set forth in NRS 86.5462, if applicable; and
- (3) A fee of \$300 for reinstatement.

2. When the Secretary of State reinstates the foreign limited-liability company, he shall issue to the foreign limited-liability company a certificate of reinstatement if the foreign limited-liability company:

- (a) Requests a certificate of reinstatement; and
- (b) Pays the required fees pursuant to NRS 86.561.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign limited-liability company to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right must not be reinstated.

5. *Except as otherwise provided in NRS 86.5468, a reinstatement pursuant to this section relates back to the date on which the foreign limited-liability company forfeited its right to transact business under the provisions of this chapter and reinstates the foreign limited-liability company's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 22. NRS 86.580 is hereby amended to read as follows:

86.580 1. A limited-liability company which did exist or is existing pursuant to the laws of this State may, upon complying with the provisions of NRS 86.276, procure a renewal or revival of its charter for any period, together with all the rights, franchises, privileges and immunities, and subject to all its existing and preexisting debts, duties and liabilities secured or

imposed by its original charter and amendments thereto, or existing charter, by filing:

(a) A certificate with the Secretary of State, which must set forth:

(1) The name of the limited-liability company, which must be the name of the limited-liability company at the time of the renewal or revival, or its name at the time its original charter expired.

(2) The name of the person lawfully designated as the resident agent of the limited-liability company, his street address for the service of process, and his mailing address if different from his street address.

(3) The date when the renewal or revival of the charter is to commence or be effective, which may be, in cases of a revival, before the date of the certificate.

(4) Whether or not the renewal or revival is to be perpetual, and, if not perpetual, the time for which the renewal or revival is to continue.

(5) That the limited-liability company desiring to renew or revive its charter is, or has been, organized and carrying on the business authorized by its existing or original charter and amendments thereto, and desires to renew or continue through revival its existence pursuant to and subject to the provisions of this chapter.

(b) A list of its managers, or if there are no managers, all its managing members and their mailing or street addresses, either residence or business.

2. A limited-liability company whose charter has not expired and is being renewed shall cause the certificate to be signed by its manager, or if there is no manager, by a person designated by its members. The certificate must be approved by a majority in interest.

3. A limited-liability company seeking to revive its original or amended charter shall cause the certificate to be signed by a person or persons designated or appointed by the members. The signing and filing of the certificate must be approved by the written consent of a majority in interest and must contain a recital that this consent was secured. The limited-liability company shall pay to the Secretary of State the fee required to establish a new limited-liability company pursuant to the provisions of this chapter.

4. The filed certificate, or a copy thereof which has been certified under the hand and seal of the Secretary of State, must be received in all courts and places as prima facie evidence of the facts therein stated and of the existence of the limited-liability company therein named.

5. *Except as otherwise provided in NRS 86.278, a renewal or revival pursuant to this section relates back to the date on which the limited-liability company's charter expired or was revoked and renews or revives the limited-liability company's charter and right to transact business as if such right had at all times remained in full force and effect.*

Sec. 23. NRS 87.020 is hereby amended to read as follows:

87.020 As used in NRS 87.010 to 87.430, inclusive, unless the context otherwise requires:

1. "Bankrupt" includes bankrupt under the Federal Bankruptcy Act or insolvent under any state insolvent act.

2. "Conveyance" includes every assignment, lease, mortgage or encumbrance.

3. "Court" includes every court and judge having jurisdiction in the case.

4. "Real property" includes land and any interest or estate in land.

5. "Registered limited-liability partnership" means a partnership formed pursuant to an agreement governed by NRS 87.010 to 87.430, inclusive, ~~for the purpose of rendering a professional service~~ and registered pursuant to and complying with NRS 87.440 to 87.560, inclusive.

Sec. 24. (Deleted by amendment.)

Sec. 25. NRS 87.4311 is hereby amended to read as follows:

87.4311 "Registered limited-liability partnership" means a partnership formed pursuant to an agreement governed by NRS 87.4301 to 87.4357, inclusive, ~~for the purpose of rendering a professional service~~ and registered pursuant to and complying with NRS 87.440 to 87.560, inclusive.

Sec. 26. NRS 87.4314 is hereby amended to read as follows:

87.4314 The provisions of NRS 87.4301 to 87.4357, inclusive, apply to a partnership:

1. Which ~~was formed before July 1, 2006; or~~

~~2. Which is formed on or after July 1, 2006,~~

~~and which~~ voluntarily elects to be governed by the provisions of NRS 87.4301 to 87.4357, inclusive ~~[-]; or~~

2. Which is formed on or after July 1, 2006, and which does not voluntarily elect to be governed by the provisions of NRS 87.010 to 87.430, inclusive.

Sec. 27. NRS 87.440 is hereby amended to read as follows:

87.440 1. To become a registered limited-liability partnership, a partnership shall file with the Secretary of State a certificate of registration stating each of the following:

(a) The name of the partnership.

(b) The street address of its principal office.

(c) The name of the person designated as the partnership's resident agent, the street address of the resident agent where process may be served upon the partnership and the mailing address of the resident agent if it is different than his street address.

(d) The name and business address of each managing partner in this State.

(e) ~~A brief statement of the professional service rendered by the partnership.~~

~~(f)~~ That the partnership thereafter will be a registered limited-liability partnership.

~~(g)~~ (f) Any other information that the partnership wishes to include.

2. The certificate of registration must be signed by a majority in interest of the partners or by one or more partners authorized to sign such a certificate.

3. The certificate of registration must be accompanied by a fee of \$75.

4. The Secretary of State shall register as a registered limited-liability partnership any partnership that submits a completed certificate of registration with the required fee.

5. The registration of a registered limited-liability partnership is effective at the time of the filing of the certificate of registration.

Sec. 28. NRS 87.530 is hereby amended to read as follows:

87.530 1. Except as otherwise provided in subsection 3, the Secretary of State shall reinstate the certificate of registration of a registered limited-liability partnership that is revoked pursuant to NRS 87.520 if the registered limited-liability partnership:

(a) Files with the Secretary of State:

(1) The information required by NRS 87.510; and

(2) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The fee required to be paid pursuant to NRS 87.510;

(2) Any penalty required to be paid pursuant to NRS 87.520; and

(3) A reinstatement fee of \$300.

2. When the Secretary of State reinstates the registered limited-liability partnership, he shall issue to the registered limited-liability partnership a certificate of reinstatement if the registered limited-liability partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 87.550.

3. The Secretary of State shall not reinstate the certificate of registration of a registered limited-liability partnership if the certificate was revoked pursuant to the provisions of this chapter at least 5 years before the date of the proposed reinstatement.

4. *Except as otherwise provided in NRS 87.455, a reinstatement pursuant to this section relates back to the date on which the registered limited-liability partnership's certificate of registration was revoked and reinstates the registered limited-liability's certificate of registration as if such certificate had at all times remained in full force and effect.*

Sec. 29. NRS 87.5435 is hereby amended to read as follows:

87.5435 1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate a foreign registered limited-liability partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign registered limited-liability partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 87.541; and

(2) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 87.541 and 87.5425 for each year or portion thereof that its right to transact business was forfeited; and

(2) A fee of \$300 for reinstatement.

2. When the Secretary of State reinstates the foreign registered limited-liability partnership, he shall issue to the foreign registered limited-liability partnership a certificate of reinstatement if the foreign registered limited-liability partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 87.550.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign registered limited-liability partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right to transact business must not be reinstated.

5. *Except as otherwise provided in NRS 87.544, a reinstatement pursuant to this section relates back to the date on which the foreign registered limited-liability partnership forfeited its right to transact business under the provisions of this chapter and reinstates the foreign registered limited-liability partnership's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 30. NRS 88.410 is hereby amended to read as follows:

88.410 1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate any limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and restore to the limited partnership its right to carry on business in this State, and to exercise its privileges and immunities if it:

(a) Files with the Secretary of State:

(1) The list required pursuant to NRS 88.395;

(2) The statement required by NRS 88.397, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 88.395 and 88.400 for each year or portion thereof during which the certificate has been revoked;

(2) The fee set forth in NRS 88.397, if applicable; and

(3) A fee of \$300 for reinstatement.

2. When the Secretary of State reinstates the limited partnership, he shall issue to the limited partnership a certificate of reinstatement if the limited partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 88.415.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation occurred only by reason of failure to pay the fees and penalties.

4. If a limited partnership's certificate has been revoked pursuant to the provisions of this chapter and has remained revoked for a period of 5 years, the certificate must not be reinstated.

5. *Except as otherwise provided in NRS 88.327, a reinstatement pursuant to this section relates back to the date on which the limited partnership forfeited its right to transact business under the provisions of this chapter and reinstates the limited partnership's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 31. NRS 88.594 is hereby amended to read as follows:

88.594 1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate a foreign limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign limited partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 88.591;

(2) The statement required by NRS 88.5915, if applicable; and

(3) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 88.591 and 88.593 for each year or portion thereof that its right to transact business was forfeited;

(2) The fee set forth in NRS 88.5915, if applicable; and

(3) A fee of \$300 for reinstatement.

2. When the Secretary of State reinstates the foreign limited partnership, he shall issue to the foreign limited partnership a certificate of reinstatement if the foreign limited partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 88.415.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign limited partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right is not subject to reinstatement.

5. *Except as otherwise provided in NRS 88.5945, a reinstatement pursuant to this section relates back to the date on which the foreign limited partnership forfeited its right to transact business under the provisions of this*

chapter and reinstates the foreign limited partnership's right to transact business as if such right had at all times remained in full force and effect.

Sec. 32. NRS 88A.650 is hereby amended to read as follows:

88A.650 1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate a business trust which has forfeited or which forfeits its right to transact business pursuant to the provisions of this chapter and shall restore to the business trust its right to carry on business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 88A.600; and

(2) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 88A.600 and 88A.630 for each year or portion thereof during which its certificate of trust was revoked; and

(2) A fee of \$300 for reinstatement.

2. When the Secretary of State reinstates the business trust, he shall issue to the business trust a certificate of reinstatement if the business trust:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 88A.900.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation of the certificate of trust occurred only by reason of the failure to file the list or pay the fees and penalties.

4. If a certificate of business trust has been revoked pursuant to the provisions of this chapter and has remained revoked for a period of 5 consecutive years, the certificate must not be reinstated.

5. *Except as otherwise provided in NRS 88A.660, a reinstatement pursuant to this section relates back to the date on which the business trust forfeited its right to transact business under the provisions of this chapter and reinstates the business trust's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 33. NRS 88A.737 is hereby amended to read as follows:

88A.737 1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate a foreign business trust which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign business trust its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 88A.732; and

(2) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 88A.732 and 88A.735 for each year or portion thereof that its right to transact business was forfeited; and

(2) A fee of \$300 for reinstatement.

2. When the Secretary of State reinstates the foreign business trust, he shall issue to the foreign business trust a certificate of reinstatement if the foreign business trust:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 88A.900.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign business trust to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right to transact business must not be reinstated.

5. *Except as otherwise provided in NRS 88A.738, a reinstatement pursuant to this section relates back to the date the foreign business trust forfeited its right to transact business under the provisions of this chapter and reinstates the foreign business trust's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 34. NRS 89.020 is hereby amended to read as follows:

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

1. "Articles" means either the articles of incorporation of a professional corporation or the articles of organization of a professional limited-liability company.

2. "Employee" means a person licensed or otherwise legally authorized to render professional service within this State who renders such service through a professional ~~corporation~~ entity or a professional association, but does not include clerks, bookkeepers, technicians or other persons who are not usually considered by custom and practice of the profession to be rendering professional services to the public.

~~{2-}~~ 3. "Licensed" means legally authorized by the appropriate regulating board of this State to engage in a regulated profession in this State.

~~{3-}~~ 4. "Professional association" means a common-law association of two or more persons licensed or otherwise legally authorized to render professional service within this State when created by written articles of association which contain in substance the following provisions characteristic of corporate entities:

(a) The death, insanity, bankruptcy, retirement, resignation, expulsion or withdrawal of any member of the association does not cause its dissolution.

(b) The authority to manage the affairs of the association is vested in a board of directors or an executive board or committee, elected by the members of the association.

(c) The members of the association are employees of the association.

(d) Members' ownership is evidenced by certificates.

~~{4.}~~ 5. "Owner" means the owner of stock in a professional corporation or the owner of a member's interest, as defined in NRS 86.091, in a professional limited-liability company.

6. "Owner's interest" means the stock of a professional corporation or a member's interest, as defined in NRS 86.091, of a professional limited-liability company.

7. "Professional corporation" means a corporation organized under this chapter to render a professional service.

~~{5.}~~ 8. "Professional entity" means either a professional corporation or a professional limited-liability company.

9. "Professional limited-liability company" means a limited-liability company organized pursuant to this chapter to render professional service.

10. "Professional service" means any type of personal service which may legally be performed only pursuant to a license, certificate of registration or other legal authorization.

~~{6.}~~ 11. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

~~{7.}~~ 12. "Regulating board" means the body which regulates and authorizes the admission to the profession which a professional ~~{corporation}~~ entity or a professional association is authorized to perform.

~~{8.}~~ 13. "Sign" means to affix a signature to a record.

~~{9.}~~ 14. "Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.

Sec. 35. NRS 89.025 is hereby amended to read as follows:

89.025 Except as otherwise provided in NRS 89.200 to 89.270, inclusive, the fees set forth in NRS 78.755 to 78.785, inclusive, apply to ~~{this chapter.}~~ professional corporations and the fees set forth in NRS 86.561 apply to professional limited-liability companies.

Sec. 36. NRS 89.030 is hereby amended to read as follows:

89.030 The laws applicable to other Nevada ~~{private}~~ corporations organized under chapter 78 of NRS and limited-liability companies organized under chapter 86 of NRS and all rights, privileges and duties thereunder shall apply to professional corporations ~~{}~~ and professional limited-liability companies, respectively, except where such laws are in conflict with or inconsistent with the provisions of this chapter. In case of conflict, the provisions of this chapter shall apply.

Sec. 37. NRS 89.040 is hereby amended to read as follows:

89.040 1. One or more persons may organize a professional ~~{corporation}~~ entity in the manner provided for organizing a ~~{private}~~

corporation pursuant to chapter 78 of NRS ~~[.]~~ or a limited-liability company pursuant to chapter 86 of NRS. Each person organizing the ~~[corporation]~~ professional entity must, except as otherwise provided in subsection 2 of NRS 89.050, be authorized to perform the professional service for which the ~~[corporation]~~ professional entity is organized. The articles ~~[of incorporation]~~ must contain the following additional information:

(a) The profession to be practiced by means of the professional ~~[corporation]~~ entity.

(b) The names and addresses, either residence or business, of the original stockholders and directors of the professional corporation ~~[.]~~ or the original members and managers of the professional limited-liability company.

(c) Except as otherwise provided in paragraph (d) of this subsection, a certificate from the regulating board of the profession to be practiced showing that each of the directors, ~~[and each of the]~~ stockholders, managers or members who is a natural person, is licensed to practice the profession.

(d) For a professional ~~[corporation]~~ entity organized pursuant to this chapter and practicing pursuant to the provisions of NRS 623.349, a certificate from the regulating board or boards of the profession or professions to be practiced showing that control and two-thirds ownership of the ~~[corporation]~~ professional entity is held by persons registered or licensed pursuant to the applicable provisions of chapter 623, 623A or 625 of NRS. As used in this paragraph, "control" has the meaning ascribed to it in NRS 623.349.

2. The corporate name of a professional corporation must contain the words "Professional Corporation" or the abbreviation "Prof. Corp.," "P.C." or "PC," or the word "Chartered" or the abbreviation "Chtd.," or "Limited" or the abbreviation "Ltd." The corporate name must contain the last name of one or more of its current or former stockholders. ~~[The corporation]~~

3. The name of a professional limited-liability company must contain the words "Professional Limited-Liability Company" or the abbreviations "Prof. L.L.C.," "Prof. LLC," "P.L.L.C.," "PLLC," or the word "Chartered" or the abbreviation "Chtd.," or "Limited" or the abbreviation "Ltd." The name of a professional limited-liability company must contain the last name of one or more of its current or former members.

4. The professional entity may render professional services and exercise its authorized powers under a fictitious name if the ~~[corporation]~~ professional entity has first registered the name in the manner required by chapter 602 of NRS.

Sec. 38. NRS 89.050 is hereby amended to read as follows:

89.050 1. Except as otherwise provided in subsection 2, a professional ~~[corporation]~~ entity may be organized only for the purpose of rendering one specific type of professional service and may not engage in any business other than rendering the professional service for which it was organized and services reasonably related thereto, except that a professional ~~[corporation]~~ entity may own real and personal property appropriate to its business and

may invest its money in any form of real property, securities or any other type of investment.

2. A professional ~~corporation~~ *entity* may be organized to render a professional service relating to:

(a) Architecture, interior design, residential design, engineering and landscape architecture, or any combination thereof, and may be composed of persons:

(1) Engaged in the practice of architecture as provided in chapter 623 of NRS;

(2) Practicing as a registered interior designer as provided in chapter 623 of NRS;

(3) Engaged in the practice of residential design as provided in chapter 623 of NRS;

(4) Engaged in the practice of landscape architecture as provided in chapter 623A of NRS; and

(5) Engaged in the practice of professional engineering as provided in chapter 625 of NRS.

(b) Medicine, homeopathy and osteopathy, and may be composed of persons engaged in the practice of medicine as provided in chapter 630 of NRS, persons engaged in the practice of homeopathic medicine as provided in chapter 630A of NRS and persons engaged in the practice of osteopathic medicine as provided in chapter 633 of NRS. Such a professional ~~corporation~~ *entity* may market and manage additional professional ~~corporations~~ *entities* which are organized to render a professional service relating to medicine, homeopathy and osteopathy.

(c) Mental health services, and may be composed of the following persons, in any number and in any combination:

(1) Any psychologist who is licensed to practice in this State;

(2) Any social worker who holds a master's degree in social work and who is licensed by this State as a clinical social worker;

(3) Any registered nurse who is licensed to practice professional nursing in this State and who holds a master's degree in the field of psychiatric nursing; and

(4) Any marriage and family therapist who is licensed by this State pursuant to chapter 641A of NRS.

↪ Such a professional ~~corporation~~ *entity* may market and manage additional professional ~~corporations~~ *entities* which are organized to render a professional service relating to mental health services pursuant to this paragraph.

3. A professional ~~corporation~~ *entity* may render a professional service only through its officers, *managers* and employees who are licensed or otherwise authorized by law to render the professional service.

Sec. 39. NRS 89.060 is hereby amended to read as follows:

89.060 The provisions of this chapter relating to professional ~~corporations~~ *entities* do not modify any law applicable to the relationship

between a person furnishing professional service and a person receiving such service, including liability arising out of such professional service, but nothing contained in this section renders:

1. A person personally liable in tort for any act in which he has not personally participated.

2. A director, officer or employee of a professional ~~{corporation}~~ *entity* liable in contract for any contract which he signs on behalf of a professional ~~{corporation}~~ *entity* within the limits of his actual authority.

Sec. 40. NRS 89.070 is hereby amended to read as follows:

89.070 1. Except as otherwise provided in this section and NRS 623.349:

(a) No ~~{corporation organized under the provisions of this chapter}~~ *professional entity* may issue any of its ~~{stock}~~ *owner's interest* to anyone other than a natural person who is licensed to render the same specific professional services as those for which the ~~{corporation}~~ *professional entity* was ~~{incorporated}~~ *formed*.

(b) No ~~{stockholder of a corporation organized under this chapter}~~ *owner* may enter into a voting trust agreement or any other type of agreement vesting another person with the authority to exercise the voting power of any or all of his ~~{stock}~~ *owner's interest*, unless the other person is licensed to render the same specific professional services as those for which the ~~{corporation}~~ *professional entity* was ~~{incorporated}~~ *formed*.

(c) No ~~{shares of a corporation organized under this chapter}~~ *owner's interest* may be sold or transferred except to a natural person who is eligible to be ~~{a stockholder of the corporation}~~ *an owner* or to the personal representative or estate of a deceased or legally incompetent stockholder. The personal representative or estate of the ~~{stockholder}~~ *owner* may continue to own ~~{shares}~~ *the owner's interest* for a reasonable period, but may not participate in any decisions concerning the rendering of professional services.

➡ The articles, ~~{of incorporation or}~~ *bylaws or operating agreement of the professional entity* may provide specifically for additional restrictions on the transfer of ~~{shares}~~ *an owner's interest* and may provide for the redemption or purchase of the ~~{shares}~~ *owner's interest* by the ~~{corporation}~~ *professional entity*, its ~~{stockholders}~~ *owners* or an eligible individual account plan complying with the requirements of subsection 2 at prices and in a manner specifically set forth. ~~{A stockholder}~~ *An owner* may transfer his ~~{shares}~~ *owner's interest* in the ~~{corporation}~~ *professional entity* or any other interest in the assets of the ~~{corporation}~~ *professional entity* to a revocable trust if he acts as trustee of the revocable trust and any person who acts as cotrustee and is not licensed to perform the services for which the ~~{corporation}~~ *professional entity* was ~~{incorporated}~~ *formed* does not participate in any decisions concerning the rendering of those services.

2. Except as otherwise provided in NRS 623.349, a person not licensed to render the professional services for which the ~~{corporation}~~ *professional entity* was ~~{incorporated}~~ *formed* may own a beneficial interest in any of the

assets, including ~~{corporate shares,}~~ *an owner's interest*, held for his account by an eligible individual account plan sponsored by the professional ~~{corporation}~~ *entity* for the benefit of its employees, which is intended to qualify under section 401 of the Internal Revenue Code, 26 U.S.C. § 401, if the terms of the trust are such that the total number of shares which may be distributed for the benefit of persons not licensed to render the professional services for which the ~~{corporation}~~ *professional entity* was ~~{incorporated}~~ *formed* is less than a controlling interest and:

(a) The trustee of the trust is licensed to render the same specific professional services as those for which the ~~{corporation}~~ *professional entity* was ~~{incorporated;}~~ *formed*; or

(b) The trustee is not permitted to participate in any ~~{corporate}~~ decisions concerning the rendering of professional services in his capacity as trustee.

➔ A trustee who is individually ~~{a stockholder of the corporation}~~ *an owner* may participate in his individual capacity as ~~{a stockholder,}~~ *an owner, manager, director or officer* in any ~~{corporate}~~ decision.

3. Except as otherwise provided in subsection 4, a professional ~~{corporation}~~ *entity* in which all the ~~{stockholders}~~ *owners* who are natural persons are licensed to render the same specific professional service may acquire and hold ~~{stock}~~ *an owner's interest* in another professional ~~{corporation,}~~ *entity* or in a similar ~~{corporation}~~ *entity* organized pursuant to the corresponding law of another state, only if all the ~~{stockholders}~~ *owners* who are natural persons of the ~~{corporation}~~ *professional entity* whose stock is acquired are licensed in that ~~{corporation's}~~ *professional entity's* state of ~~{incorporation}~~ *formation* to render the same specific professional service as the ~~{stockholders}~~ *owners* who are natural persons of the professional ~~{corporation}~~ *entity* that acquires the ~~{stock}~~ *owner's interest*.

4. A professional ~~{corporation}~~ *entity* practicing pursuant to NRS 623.349 in which all the ~~{stockholders}~~ *owners* are natural persons, regardless of whether or not the natural persons are licensed to render the same specific professional service, may acquire and hold ~~{stock}~~ *an owner's interest* in another professional ~~{corporation}~~ *entity* or in a similar ~~{corporation}~~ *entity* organized pursuant to the corresponding law of another state if control and two-thirds ownership of the business organization or association that is acquired is held by persons registered or licensed pursuant to the applicable provisions of chapter 623, 623A or 625 of NRS. As used in this subsection, "control" has the meaning ascribed to it in NRS 623.349.

5. Any act in violation of this section is void and does not pass any rights or privileges or vest any powers, except to an innocent person who is not ~~{a stockholder}~~ *an owner* and who has relied on the effectiveness of the action.

Sec. 41. NRS 89.080 is hereby amended to read as follows:

89.080 1. If any officer, stockholder, director, *member, manager* or employee of ~~{a corporation}~~ *a professional entity* organized under this chapter who has been rendering professional service to the public becomes

legally disqualified to render such professional services within this State, he shall sever within a reasonable period all professional service with and financial interest in the ~~{corporation}~~ *professional entity*, but this chapter does not prevent a ~~{corporation}~~ *professional entity* formed under this chapter from entering into a contract with an employee which provides for severance pay or for compensation for past services upon termination of professional service, whether by death or otherwise.

2. Except as otherwise provided in NRS 623.349, a natural person may not be an officer, ~~{or}~~ director or manager of a ~~{corporation-organized}~~ *professional entity* formed under this chapter unless he is licensed to render the same specific professional services as those for which the ~~{corporation}~~ *professional entity* was ~~{incorporated}~~ *formed*.

3. Upon the death of ~~{a stockholder}~~ *an owner* of a ~~{corporation}~~ *professional entity* who has transferred his interest in the ~~{corporation}~~ *professional entity* to a revocable trust as permitted by NRS 89.070, the trustee of the revocable trust may continue to retain any interest so transferred ~~{including corporate shares}~~ for a reasonable period, but may not exercise any authority concerning the rendering of professional services and may not, except as otherwise provided in NRS 623.349, distribute the ~~{corporate}~~ *owner's* interest to any person not licensed to render the services for which the ~~{corporation}~~ *professional entity* was ~~{incorporated}~~ *formed*.

4. A ~~{corporation's}~~ *professional entity's* failure to require compliance with the provisions of this section is a ground for the forfeiture of its charter.

Sec. 42. NRS 89.100 is hereby amended to read as follows:

89.100 The provisions of this chapter relating to professional ~~{corporations}~~ *entities* do not bar the regulating board of any profession from taking any action otherwise within its power, nor do they affect the rules of ethics or practice of any profession.

Sec. 43. NRS 89.110 is hereby amended to read as follows:

89.110 No professional ~~{corporation}~~ *entity* may do any act which is prohibited to be done by natural persons licensed to practice the profession which the professional ~~{corporation}~~ *entity* is organized to practice.

Sec. 44. NRS 89.256 is hereby amended to read as follows:

89.256 1. Except as otherwise provided in subsections 3 and 4, the Secretary of State shall reinstate any professional association which has forfeited its right to transact business under the provisions of this chapter and restore the right to carry on business in this State and exercise its privileges and immunities if it:

(a) Files with the Secretary of State:

(1) The list and certification required by NRS 89.250; and

(2) A certificate of acceptance of appointment signed by its resident agent; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 89.250 and 89.252 for each year or portion thereof during which the articles of association have been revoked; and

(2) A fee of \$300 for reinstatement.

2. When the Secretary of State reinstates the professional association, he shall issue to the professional association a certificate of reinstatement if the professional association:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to subsection 8 of NRS 78.785.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid, and the revocation of the articles of association occurred only by reason of the failure to pay the fees and penalties.

4. If the articles of association of a professional association have been revoked pursuant to the provisions of this chapter and have remained revoked for 10 consecutive years, the articles must not be reinstated.

5. *A reinstatement pursuant to this section relates back to the date on which the professional association forfeited its right to transact business under the provisions of this chapter and reinstates the professional association's right to transact business as if such right had at all times remained in full force and effect.*

Sec. 45. NRS 92A.380 is hereby amended to read as follows:

92A.380 1. Except as otherwise provided in NRS 92A.370 and 92A.390, any stockholder is entitled to dissent from, and obtain payment of the fair value of his shares in the event of any of the following corporate actions:

(a) Consummation of a conversion or plan of merger to which the domestic corporation is a constituent entity:

(1) If approval by the stockholders is required for the conversion or merger by NRS 92A.120 to 92A.160, inclusive, or the articles of incorporation, regardless of whether the stockholder is entitled to vote on the conversion or plan of merger; or

(2) If the domestic corporation is a subsidiary and is merged with its parent pursuant to NRS 92A.180.

(b) Consummation of a plan of exchange to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be acquired, if his shares are to be acquired in the plan of exchange.

(c) Any corporate action taken pursuant to a vote of the stockholders to the extent that the articles of incorporation, bylaws or a resolution of the board of directors provides that voting or nonvoting stockholders are entitled to dissent and obtain payment for their shares.

(d) Any corporate action not described in paragraph (a), (b) or (c) that will result in the stockholder receiving money or scrip instead of fractional shares

~~[-]~~ *except where the stockholder would not be entitled to receive such payment pursuant to NRS 78.205, 78.2055 or 78.207.*

2. A stockholder who is entitled to dissent and obtain payment pursuant to NRS 92A.300 to 92A.500, inclusive, may not challenge the corporate action creating his entitlement unless the action is unlawful or fraudulent with respect to him or the domestic corporation.

3. *From and after the effective date of any corporate action described in subsection 1, no stockholder who has exercised his right to dissent pursuant to NRS 92A.300 to 92A.500, inclusive, is entitled to vote his shares for any purpose or to receive payment of dividends or any other distributions on shares. This subsection does not apply to dividends or other distributions payable to stockholders on a date before the effective date of any corporate action from which the stockholder has dissented.*

Sec. 46. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

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

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

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

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

1. Payments *for your individual support* received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.
2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.
3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.
4. Proceeds from a policy of life insurance.
5. Payments of benefits under a program of industrial insurance.

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

7. Payments received as unemployment compensation.

8. Veteran's benefits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20. Payments received as restitution for a criminal act.

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

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

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

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE

MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 47. NRS 21.090 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

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

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

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

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

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

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed \$350,000 in value and the dwelling is situated upon lands not owned by him.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 48. NRS 31.045 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

4. Proceeds from a policy of life insurance.

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

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

7. Payments received as unemployment compensation.

8. Veteran's benefits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20. Payments received as restitution for a criminal act.

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

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

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

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

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

motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

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

Sec. 49. NRS 104.9501 is hereby amended to read as follows:

104.9501 1. Except as otherwise provided in subsection 2, if the law of this State governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(a) The office designated for the filing or recording of a mortgage on the real property, if:

(1) The collateral is as-extracted collateral or timber to be cut; or

(2) The financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(b) The office of the Secretary of State in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

2. The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State . ~~[or the county recorder of the appropriate county, as determined pursuant to chapter 105 of NRS.]~~ The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

Sec. 50. NRS 107.080 is hereby amended to read as follows:

107.080 1. Except as otherwise provided in NRS 107.085, if any transfer in trust of any estate in real property is made after March 29, 1927, to secure the performance of an obligation or the payment of any debt, a power of sale is hereby conferred upon the trustee to be exercised after a breach of the obligation for which the transfer is security.

2. The power of sale must not be exercised, however, until:

(a) In the case of any trust agreement coming into force:

(1) On or after July 1, 1949, and before July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 15 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment; or

(2) On or after July 1, 1957, the grantor, or his successor in interest, a beneficiary under a subordinate deed of trust or any other person who has a subordinate lien or encumbrance of record on the property, has for a period of 35 days, computed as prescribed in subsection 3, failed to make good the deficiency in performance or payment;

(b) The beneficiary, the successor in interest of the beneficiary or the trustee first executes and causes to be recorded in the office of the recorder of the county wherein the trust property, or some part thereof, is situated a notice of the breach and of his election to sell or cause to be sold the property to satisfy the obligation; and

(c) Not less than 3 months have elapsed after the recording of the notice.

3. The 15- or 35-day period provided in paragraph (a) of subsection 2 commences on the first day following the day upon which the notice of default and election to sell is recorded in the office of the county recorder of the county in which the property is located and a copy of the notice of default and election to sell is mailed by registered or certified mail, return receipt requested and with postage prepaid to the grantor, and to the person who holds the title of record on the date the notice of default and election to sell is recorded, at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must describe the deficiency in performance or payment and may contain a notice of intent to declare the entire unpaid balance due if acceleration is permitted by the obligation secured by the deed of trust, but acceleration must not occur if the deficiency in performance or payment is made good and any costs, fees and expenses incident to the preparation or recordation of the notice and incident to the making good of the deficiency in performance or payment are paid within the time specified in subsection 2.

4. The trustee, or other person authorized to make the sale under the terms of the trust deed or transfer in trust, shall, after expiration of the 3-month period following the recording of the notice of breach and election to sell, and before the making of the sale, give notice of the time and place thereof by recording the notice of sale and by:

(a) Providing the notice to each trustor and any other person entitled to notice pursuant to this section by personal service or by mailing the notice by registered or certified mail to the last known address of the trustor and any other person entitled to such notice pursuant to this section;

(b) Posting a similar notice particularly describing the property, for 20 days successively, in three public places of the township or city where the property is situated and where the property is to be sold; and

(c) Publishing a copy of the notice three times, once each week for 3 consecutive weeks, in a newspaper of general circulation in the county where the property is situated.

5. Every sale made under the provisions of this section and other sections of this chapter vests in the purchaser the title of the grantor and his successors in interest without equity or right of redemption. A ~~person who purchases property pursuant to this section is not a bona fide purchaser, and the~~ sale made pursuant to this section may be declared void by any court of competent jurisdiction in the county where the sale took place if ~~the~~ :

(a) The trustee or other person authorized to make the sale does not substantially comply with the provisions of this section ~~[-]~~ ;

(b) Except as otherwise provided in subsection 6, an action is commenced in the county where the sale took place within 90 days after the date of the sale; and

(c) A notice of lis pendens providing notice of the pendency of the action is recorded in the office of the county recorder of the county where the sale took place within 30 days after commencement of the action.

6. If proper notice is not provided pursuant to subsection 3 or paragraph (a) of subsection 4 to the grantor, to the person who holds the title of record on the date the notice of default and election to sell is recorded, to each trustor or to any other person entitled to such notice, the person who did not receive such proper notice may commence an action pursuant to subsection 5 within 120 days after the date on which the person received actual notice of the sale.

7. The sale of a lease of a dwelling unit of a cooperative housing corporation vests in the purchaser title to the shares in the corporation which accompany the lease.

Sec. 51. (Deleted by amendment.)

Sec. 52. NRS 87.003 is hereby repealed.

TEXT OF REPEALED SECTION

87.003 "Professional service" defined. "Professional service" means any type of personal service that may legally be performed only pursuant to a license or certificate of registration.

Senator Amodei moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 483.

Remarks by Senator Amodei.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 529.

The following Assembly amendment was read:

Amendment No. 985.

"SUMMARY—Revises certain provisions relating to Medicaid. (BDR 38-601)"

"AN ACT relating to Medicaid; revising certain provisions concerning the recovery from recipients or third parties of certain costs for Medicaid paid by the Department of Health and Human Services; revising certain provisions concerning assessments on nursing facilities; revising certain provisions concerning liability for the submission of a false claim to the State or a local government; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that the Department of Health and Human Services is subrogated to the right of a recipient of Medicaid when the recipient incurs costs for medical services which are payable by the Department under circumstances which create legal liability for such costs in a third party.

(NRS 422.293) Sections ~~[2-40]~~ 3, 4, 9 and 10 of this bill revise certain provisions concerning the recovery of such costs by the Department and impose liability for such costs on certain persons who do not comply with the procedures established to protect the right of the Department to recover benefits paid by Medicaid.

Existing law provides for the assessment of fees on nursing facilities to increase the quality of nursing care. (NRS 422.3755-422.379) Sections ~~[12 and 13]~~ 13 and 14 of this bill revise the determination of the amount of the fees to comply with federal law and to allow the recoupment of the fees and any administrative penalties from payments made pursuant to the Medicaid program.

The Federal Deficit Reduction Act of 2005, Public Law 109-171, enacted certain provisions concerning state plans for Medicaid. Section 6031 of the Federal Deficit Reduction Act provides financial incentives for states that enact laws establishing liability for false or fraudulent claims made to the State Plan for Medicaid. To be eligible for these financial incentives, the laws of a state must contain provisions that are at least as effective at rewarding and facilitating qui tam actions for false or fraudulent claims as those described in the Federal False Claims Act, 31 U.S.C. §§ 3730-3732. Sections ~~[21-25]~~ 23-27 of this bill amend existing law concerning the filing of false or fraudulent claims to comply with the provisions of section 6031 of the Federal Deficit Reduction Act. (NRS 357.040, 357.070, 357.080, 357.110, 357.170) Sections 11 and 15 of this bill provide for the recovery of benefits and for criminal penalties for certain fraudulent acts related to public assistance. (NRS 422.29304, 422.410)

Sections ~~[29-34]~~ 31-36 of this bill amend existing law to comply with the requirements of section 6035 of the Federal Deficit Reduction Act concerning certain providers of health insurance. Sections ~~[29-34]~~ 31-36 require providers of health insurance to provide certain information concerning a person who is eligible for assistance under Medicaid to the State upon request. Sections ~~[29-34]~~ 31-36 also require providers of health insurance to respond to inquiries by the State concerning a claim for payment for medical assistance not later than 3 years after the date of provision of the medical services. Sections ~~[29-34]~~ 31-36 require providers of health insurance to agree not to deny a claim submitted by the State solely on the basis of the date of submission of the claim or the form of documentation submitted if the State submits the claim not later than 3 years after the date of the provision of medical assistance and the State commences any action to enforce its rights with respect to the claim not later than 6 years after submission of the claim. (NRS 689A.430, 689B.300, 695A.151, 695B.340, 695C.163, 695F.440)

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

Section 1. Chapter 422 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. ~~In any case where the Department is subrogated to the rights of the recipient or his successors in interest as provided in NRS 422.293, the Department has a lien upon the proceeds of any recovery from the persons liable, whether the proceeds of the recovery are by way of judgment, settlement or otherwise. Such a lien must be satisfied in full:~~

~~1. Before any portion of the proceeds of any recovery or settlement is disbursed to the recipient, his successors in interest or his attorney; and~~

~~2. Not later than 30 days after the proceeds of any recovery or settlement are distributed to or on behalf of the recipient, his successors in interest or his attorney;~~

~~except that the date on which such a lien must be satisfied in full may be changed by consent of the Department and the recipient, his successors in interest or his attorney. The Department shall not refuse to provide consent without good cause. (Deleted by amendment.)~~

Sec. 3. 1. ~~A recipient [who asserts an action or]~~, upon assertion of a claim against a third party to which the Department is subrogated pursuant to NRS 422.293, ~~[his successor in interest, his guardian]~~ or his attorney, upon agreeing to represent such a recipient, shall provide written notice to the Department ~~of~~

~~(a) Upon the filing of a claim against a third party;~~

~~(b) Upon entering into the negotiation of a settlement with a third party or the third party's insurer;~~

~~(c) Upon intervention in or consolidation of any action against a third party; and~~

~~(d) At least 30 days before the entry of any judgment, award, settlement or release of liability in any action or claim to which the Department is subrogated pursuant to NRS 422.293.] in the manner provided in subsection 2.~~

2. The notice provided pursuant to subsection 1 must include, without limitation:

(a) The name of the recipient;

(b) The social security number of the recipient;

(c) The date of birth of the recipient;

(d) The name of the attorney of the recipient, if applicable;

(e) The name of any person against whom the recipient is making a claim, if known;

(f) The name of any insurer of any person against whom the recipient is making a claim, if known;

(g) The date of the incident giving rise to the claim; and

(h) A short statement identifying the nature of the recipient's claim or the terms of any settlement, judgment or award.

3. Any statute of limitations applicable to any claim or action by the Department is tolled until such time as the Department receives the notice required by this section.

4. As used in this section, "claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured.

Sec. 4. Upon receiving the notice required pursuant to section 3 of this act, the Department shall , within 30 days, provide written notice to the recipient ~~, his successors in interest,~~ or his attorney and to the third party. The written notice must include, without limitation, the name of the recipient and the amount of the Department's lien. No lien created pursuant to ~~section 2 of this act~~ NRS 422.293 is enforceable unless written notice is first given to the person against whom the lien is asserted ~~or his attorney.~~

Sec. 5. ~~[1.—The Department may bring an action in any district court in this State to enforce its rights under NRS 422.293 and sections 2 to 9, inclusive, of this act not less than 30 days after providing written notice to a person who is liable to the Department pursuant to section 9 of this act.~~

~~2.—The Department shall enforce its rights under NRS 422.293 and sections 2 to 9, inclusive, of this act and may enter into a contract for the recovery of any claim or right of indemnity pursuant to NRS 422.293 and sections 2 to 9, inclusive, of this act. In enforcing its rights under this section, the Department may:~~

~~(a) Allow the recipient, in conjunction with his own claim, to proceed on behalf of the Department in prosecuting the Department's claim for the unreimbursed value or cost of the medical services provided;~~

~~(b) Intervene or join in any claim or action brought by a recipient;~~

~~(c) Prosecute a claim or action on behalf of the Department or the recipient, alone or in conjunction with the recipient; or~~

~~(d) Compromise, settle or release any claim against a third party.]~~
(Deleted by amendment.)

Sec. 6. ~~[1.—If the Department receives notice pursuant to section 3 of this act, the Director or his designated representative may, in consideration of the legal services provided by an attorney to procure a recovery for the recipient, reduce the lien on the proceeds of any recovery.~~

~~2.—The attorney of a recipient:~~

~~(a) Shall not condition the amount of attorney's fees or impose additional attorney's fees based on whether a reduction of the lien is authorized by the Director or his designated representative pursuant to subsection 1.~~

~~(b) Shall reduce the amount of the fees charged the recipient for services provided by the amount the attorney receives from the reduction of a lien authorized by the Director or his designated representative pursuant to subsection 1.]~~ (Deleted by amendment.)

Sec. 7. ~~[1.—The Department's right to recover from any third party pursuant to NRS 422.293 and sections 2 to 9, inclusive, of this act is independent of any right of the recipient to recover. No release or satisfaction of any cause of action, suit, claim, counterclaim, demand, judgment, settlement, settlement agreement or compromise of any claim by~~

~~the recipient is binding on the Department against a third party unless the Department joins in the release or satisfaction or executes a release of the lien. A release or satisfaction of any cause of action, suit, claim, counterclaim, demand, judgment, settlement, settlement agreement or compromise of any claim by the recipient without prior notification to and approval of the Department constitutes conclusive evidence of the liability of the third party in any claim by the Department against the third party. In prosecuting such a claim, the Department must establish only the amount and accuracy of its claim relating to the payment of medical services.~~

~~2. In any claim or action for the recovery of the costs of medical services paid to or on behalf of a recipient in which the Department is named to be a plaintiff, the Department may recover the full value of the Department's lien created pursuant to section 2 of this act. (Deleted by amendment.)~~

Sec. 8. ~~[An action or claim for personal injury brought by or on behalf of a recipient, or on behalf of the estate of a recipient, must include a claim for medical expenses incurred by the Department. In any recovery in an action or claim for personal injury brought by or on behalf of a recipient, or on behalf of the estate of a recipient, not less than the first one third portion of any settlement, claim or judgment must be designated to be medical expenses. The Department shall recover its claim from the portion of the settlement, claim or judgment designated as medical expenses. Except as otherwise provided in section 6 of this act, the Department may recover the lesser of:~~

~~1. One third of the entire settlement, claim or judgment; or~~

~~2. The full value of the Department's lien created pursuant to section 2 of this act. (Deleted by amendment.)~~

Sec. 9. ~~[Any]~~

~~1. Except as otherwise provided in subsection 2, any person who fails to comply with the provisions of NRS 422.293 and [sections 2 to 9, inclusive,] section 3 of this act is liable to the Department for:~~

~~[1.] (a) The total amount of the Department's lien created pursuant to [section 2 of this act;~~

~~2. A civil penalty equal to 10 percent of the amount of the Department's lien; and~~

~~3. NRS 422.293; and~~

~~(b) Any attorney's fees and litigation expenses incurred by the Department in enforcing the Department's rights pursuant to NRS 422.293 and [sections 2 to 9, inclusive,] section 3 of this act.~~

~~2. A person other than the recipient is not liable to the Department if the court determines that the failure to provide notice was caused by excusable neglect.~~

Sec. 10. NRS 422.293 is hereby amended to read as follows:

422.293 1. When a recipient of Medicaid or a recipient of insurance provided pursuant to the Children's Health Insurance Program incurs an illness or injury for which medical services are payable by the Department

and which is incurred under circumstances creating a legal liability in some person other than the recipient or a division of the Department to pay all or part of the costs of such medical services, the Department is subrogated to the right of the recipient to the extent of all such medical costs ~~for~~ and may join or intervene in any action by the recipient or his successors in interest to enforce such legal liability.

2. If a recipient or his successors in interest fail or refuse to commence an action to enforce the legal liability, the Department may commence an independent action, after notice to the recipient or his successors in interest, to recover all medical costs to which it is entitled. In any such action by the Department, the recipient or his successors in interest may be joined as third-party defendants.

3. In any case where the Department is subrogated to the rights of the recipient or his successors in interest as provided in subsection 1, the Department has a lien upon the proceeds of any recovery from the persons liable, whether the proceeds of the recovery are by way of judgment, settlement or otherwise. Such a lien must be satisfied in full, unless reduced pursuant to subsection {5,} 4, at such time as:

(a) The proceeds of any recovery or settlement are distributed to or on behalf of the recipient, his successors in interest or his attorney; and

(b) A dismissal by any court of any action brought to enforce the legal liability established by subsection 1.

~~{→ No such lien is enforceable unless written notice is first given to the person against whom the lien is asserted.}~~

~~4. {The recipient or his successors in interest shall notify the Department in writing before entering any settlement agreement or commencing any action to enforce the legal liability referred to in subsection 1. Except if extraordinary circumstances exist, a person who fails to comply with the provisions of this subsection shall be deemed to have waived any consideration by the Director or his designated representative of a reduction of the amount of the lien pursuant to subsection 5 and shall pay to the Department all costs to which it is entitled and its court costs and attorney's fees.~~

~~5.} If the Department receives notice pursuant to {subsection 4,} section 3 of this act, the Director or his designated representative may, in consideration of the legal services provided by an attorney to procure a recovery for the recipient, reduce the lien on the proceeds of any recovery.~~

~~{6.} 5. The attorney of a {recipient:~~

~~(a) Shall} recipient shall not condition the amount of attorney's fees or impose additional attorney's fees based on whether a reduction of the lien is authorized by the Director or his designated representative pursuant to subsection {5.~~

~~(b) Shall reduce the amount of the fees charged the recipient for services provided by the amount the attorney receives from the reduction of a lien~~

~~authorized by the Director or his designated representative pursuant to subsection 5.] 4.~~

Sec. 11. NRS 422.29304 is hereby amended to read as follows:

422.29304 1. Except as otherwise provided in this section, the Department shall, to the extent that it is not prohibited by federal law, recover from a recipient of public assistance, the estate of the recipient, the undivided estate of a recipient of Medicaid or a person who signed the application for public assistance or admission to a nursing facility on behalf of the recipient an amount not to exceed the amount of public assistance incorrectly paid to the recipient, if the person who signed the application:

(a) Failed to report any required information to the Department or the nursing facility that the person knew at the time he signed the application; ~~for]~~

(b) Refused to provide financial information regarding the recipient's income and assets, including, without limitation, information regarding any transfers or assignments of income or assets;

(c) Concealed information regarding the existence, transfer or disposition of the recipient's income and assets with the intent of enabling a recipient to meet any eligibility requirement for public assistance;

(d) Made any false representation regarding the recipient's income and assets, including, without limitation, any information regarding any transfers or assignments of income or assets; or

(e) Failed to report to the Department or the nursing facility within the period allowed by the Department any required information that the person obtained after he filed the application.

2. Except as otherwise provided in this section, a recipient of incorrectly paid public assistance, the undivided estate of a recipient of Medicaid or a person who signed the application for public benefits or admission to a nursing facility on behalf of the recipient shall reimburse the Department or appropriate state agency for the value of the incorrectly paid public assistance.

3. The Director or his designee may, to the extent that it is not prohibited by federal law, determine the amount of, and settle, adjust, compromise or deny a claim against a recipient of public assistance, the estate of the recipient, the undivided estate of a recipient of Medicaid or a person who signed the application for public assistance or admission to a nursing facility on behalf of the recipient.

4. The Director may, to the extent that it is not prohibited by federal law, waive the repayment of public assistance incorrectly paid to a recipient if the incorrect payment was not the result of an intentional misrepresentation or omission by the recipient and if repayment would cause an undue hardship to the recipient. The Director shall, by regulation, establish the terms and conditions of such a waiver, including, without limitation, the circumstances that constitute undue hardship.

~~[Sec. 11.]~~ *Sec. 12.* NRS 422.29306 is hereby amended to read as follows:

422.29306 1. The Department may, to the extent not prohibited by federal law, petition for the imposition of a lien pursuant to the provisions of NRS 108.850 against real or personal property of a recipient of Medicaid as follows:

(a) The Department may obtain a lien against a recipient's property, both real or personal, before or after his death in the amount of assistance paid or to be paid on his behalf if the court determines that assistance was incorrectly paid for the recipient.

(b) The Department may seek a lien against the real property of a recipient at any age before his death in the amount of assistance paid or to be paid for him if he is an inpatient in a nursing facility, intermediate care facility for the mentally retarded or other medical institution and the Department determines, after notice and opportunity for a hearing in accordance with applicable regulations, that the recipient cannot reasonably be expected to be discharged and return home.

2. No lien may be placed on a recipient's home pursuant to paragraph (b) of subsection 1 for assistance correctly paid if:

(a) His spouse;

(b) His child who is under 21 years of age, blind or disabled as determined in accordance with 42 U.S.C. § 1382c; or

(c) His brother or sister who is an owner or part owner of the home and who was residing in the home for at least 1 year immediately before the date the recipient was admitted to the medical institution,

↪ is lawfully residing in the home.

3. Upon the death of a recipient, the Department may seek a lien upon the recipient's undivided estate as defined in NRS 422.054.

4. *The amount of the lien recovery must be based on the value of the real or personal property at the time of sale of the property.*

5. The Director shall release a lien pursuant to this section:

(a) Upon notice by the recipient or his representative to the Director that the recipient has been discharged from the medical institution and has returned home;

(b) If the lien was incorrectly determined; or

(c) Upon satisfaction of the claim of the Department.

~~[Sec. 12.]~~ *Sec. 13.* NRS 422.3775 is hereby amended to read as follows:

422.3775 1. Each nursing facility that is licensed in this State shall pay a fee assessed by the Division to increase the quality of nursing care in this State.

2. To determine the amount of the fee to assess pursuant to this section, the Division shall establish a ~~[uniform]~~ rate per non-Medicare patient day that is equivalent to ~~[6 percent]~~ a percentage of the total annual accrual basis gross revenue for services provided to patients of all nursing facilities

licensed in this State. *The percentage used to establish the rate must not exceed that allowed by federal law.* For the purposes of this subsection, total annual accrual basis gross revenue does not include charitable contributions received by a nursing facility.

3. The Division shall calculate the fee owed by each nursing facility by multiplying the total number of days of care provided to non-Medicare patients by the nursing facility, as provided to the Division pursuant to NRS 422.378, by the ~~uniform~~ rate established pursuant to subsection 2.

4. A fee assessed pursuant to this section is due 30 days after the end of the month for which the fee was assessed.

5. The payment of a fee to the Division pursuant to NRS 422.3755 to 422.379, inclusive, is an allowable cost for Medicaid reimbursement purposes.

~~Sec. 13.~~ *Sec. 14.* NRS 422.379 is hereby amended to read as follows:

422.379 1. The Division shall establish administrative penalties for the late payment by a nursing facility of a fee assessed pursuant to NRS 422.3755 to 422.379, inclusive.

2. *The Division may recoup any payments made to nursing facilities providing services pursuant to the Medicaid program up to the amount of the fees owed as determined pursuant to NRS 422.3775 and any administrative penalties owed pursuant to subsection 1 if a nursing facility fails to remit the fees and administrative penalties owed within 30 days after the date they are due. Before recoupment of payments pursuant to this subsection, the Division may allow a nursing facility that fails to remit fees and administrative penalties owed an opportunity to negotiate a repayment plan with the Division. The terms of the repayment plan may be established at the discretion of the Division.*

Sec. 15. NRS 422.410 is hereby amended to read as follows:

422.410 1. Unless a different penalty is provided pursuant to NRS 422.361 to 422.369, inclusive, or 422.450 to 422.590, inclusive, a person who knowingly and designedly, by any false pretense, false or misleading statement, impersonation, ~~for~~ misrepresentation, or concealment, transfer, disposal or assignment of money or property obtains or attempts to obtain monetary or any other public assistance, or money, property, medical or remedial care or any other service provided pursuant to the Children's Health Insurance Program, having a value of \$100 or more, whether by one act or a series of acts, with the intent to cheat, defraud or defeat the purposes of this chapter or to enable a person to meet or appear to meet any requirements of eligibility prescribed by state law or by rule or regulation adopted by the Department for a grant or an increase in a grant of any type of public assistance is guilty of a category E felony and shall be punished as provided in NRS 193.130. In addition to any other penalty, the court shall order the person to pay restitution.

2. For the purposes of subsection 1, whenever a recipient of Temporary Assistance for Needy Families pursuant to the provisions of this chapter and chapter 422A of NRS receives an overpayment of benefits for the third time and the overpayments have resulted from a false statement or representation by the recipient or from the failure of the recipient to notify the Division of Welfare and Supportive Services of the Department of a change in his circumstances which would affect the amount of assistance he receives, a rebuttable presumption arises that the payment was fraudulently received.

3. For the purposes of subsection 1, "public assistance" includes any money, property, medical or remedial care or any other service provided pursuant to a state plan.

~~{Sec. 14.}~~ Sec. 16. NRS 425.360 is hereby amended to read as follows:

425.360 1. Any payment of public assistance pursuant to this chapter creates a debt for support to the Division by the responsible parent, whether or not the parent received prior notice that his child was receiving public assistance.

2. The Division is entitled to the amount to which a dependent child or a person having the care, custody and control of a dependent child would have been entitled for support, to the extent of the assignment of those rights to support pursuant to NRS 425.350, and may prosecute or maintain any action for support or execute any administrative remedy existing under the laws of this State to obtain reimbursement of money expended for public assistance from any liable third party, including an insurer, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 , ~~{§ 29 U.S.C.A. § 1167(1) , }~~ service benefit plan, *self-insured plan* or health maintenance organization. If a court enters judgment for an amount of support to be paid by a responsible parent, the Division is entitled to the amount of the debt created by that judgment to the extent of the assignment of rights to support pursuant to NRS 425.350, and the judgment awarded shall be deemed to be in favor of the Division to that extent. This entitlement applies to, but is not limited to, a temporary order for spousal support, a family maintenance order or an alimony order, whether or not allocated to the benefit of the child on the basis of providing necessities for the caretaker of the child, up to the amount paid by the Division in public assistance to or for the benefit of a dependent child. The Division may petition the appropriate court for modification of its order on the same grounds as a party to the action.

3. If there is no court order for support, or if the order provides that no support is due but the facts on which the order was based have changed, the amount due is the amount computed pursuant to NRS 125B.070 and 125B.080, using the Nevada average wage, determined by the Employment Security Division of the Department of Employment, Training and Rehabilitation, if the gross income of the responsible parent cannot be otherwise ascertained.

4. Debts for support may not be incurred by a parent or any other person who is the recipient of public assistance for the benefit of a dependent child for the period when the parent or other person is a recipient.

5. *If a state agency is assigned any rights of a dependent child or a person having the care, custody and control of a dependent child who is eligible for medical assistance under Medicaid, the person having the care, custody and control of the dependent child shall, upon request of the state agency, provide to the state agency information regarding the dependent child or a person having the care, custody and control of a dependent child to determine:*

(a) *Any period during which the dependent child or a person having the care, custody and control of a dependent child may be or may have been covered by an insurer; and*

(b) *The nature of any coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured dependent child or a person having the care, custody and control of a dependent child and the identifying number of the policy, evidence of coverage or contract.*

~~{Sec. 15.}~~ Sec. 17. NRS 108.850 is hereby amended to read as follows:

108.850 1. A petition to the district court for the imposition of a lien as described and limited in NRS 422.29306 to recover money owed to the Department of Health and Human Services as a result of payment of benefits for Medicaid must set forth:

(a) The facts concerning the giving of assistance;

(b) The name and address of the person who is receiving or who received the benefits for Medicaid;

(c) A description of the property, sufficient for identification ; ~~{, and its estimated value;}~~

(d) The names, ages, residences and relationship of all persons who are claiming an interest in the property or who are listed as having any interest in the property, so far as known to the petitioner; and

(e) An itemized list of the amount owed to the Department of Health and Human Services as a result of payment of benefits for Medicaid.

2. No defect of form or in the statement of facts actually existing voids the petition for the lien.

~~{Sec. 16.}~~ Sec. 18. NRS 132.185 is hereby amended to read as follows:

132.185 "Interested person" includes , *without limitation*, an heir, devisee, child, spouse, creditor, beneficiary and any other person having a property right in or claim against a trust estate or the estate of a decedent ~~{,}~~ , *including, without limitation, the Director of the Department of Health and Human Services in any case in which money is owed to the Department of Health and Human Services as a result of the payment of benefits for Medicaid.* The term includes a person having priority for appointment as a personal representative and other fiduciaries representing interested persons.

The meaning as it relates to particular persons must be determined according to the particular purposes of, and matter involved in, a proceeding.

~~[Sec. 17.]~~ *Sec. 19.* NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

- (a) Invest the property of the ward.
- (b) Continue the business of the ward.
- (c) Borrow money for the ward.
- (d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward.
- (e) Make gifts from the ward's estate or make expenditures for the ward's relatives.
- (f) Sell, lease, place into any type of trust or surrender any property of the ward.
- (g) Exchange or partition the ward's property.
- (h) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.
- (i) Release the power of the ward as trustee, personal representative, custodian for a minor or guardian.
- (j) Exercise or release the power of the ward as a donee of a power of appointment.
- (k) Change the state of residence or domicile of the ward.
- (l) Exercise the right of the ward to take under or against a will.
- (m) Transfer to a trust created by the ward any property unintentionally omitted from the trust.
- (n) Submit a revocable trust to the jurisdiction of the court if:
 - (1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or
 - (2) The trust was created by the court.
- (o) *Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.*
- (p) Take any other action which the guardian deems would be in the best interests of the ward.

2. The petition must be signed by the guardian and contain:

- (a) The name, age, residence and address of the ward.
- (b) A concise statement as to the condition of the ward's estate.
- (c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

3. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

4. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward, or to complete contracts of the ward.

~~[Sec. 18.]~~ Sec. 20. NRS 159.115 is hereby amended to read as follows:

159.115 1. Upon the filing of any petition under NRS 159.078 or 159.113, or any account, notice must be given:

(a) At least 10 days before the date set for the hearing, by mailing a copy of the notice by regular mail to the residence, office or post office address of each person required to be notified pursuant to subsection 3;

(b) At least 10 days before the date set for the hearing, by personal service;

(c) If the address or identity of the person is not known and cannot be ascertained with reasonable diligence, by publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held, the last publication of which must be published at least 10 days before the date set for the hearing; or

(d) In any other manner ordered by the court, for good cause shown.

2. The notice must:

(a) Give the name of the ward.

(b) Give the name of the petitioner.

(c) Give the date, time and place of the hearing.

(d) State the nature of the petition.

(e) Refer to the petition for further particulars, and notify all persons interested to appear at the time and place mentioned in the notice and show cause why the court order should not be made.

3. At least 10 days before the date set for the hearing, the petitioner shall cause a copy of the notice to be mailed to the following:

(a) Any minor ward who is 14 years of age or older or the parent or legal guardian of any minor ward who is less than 14 years of age.

(b) The spouse of the ward and other heirs of the ward who are related within the second degree of consanguinity so far as known to the petitioner.

(c) The guardian of the person of the ward, if the guardian is not the petitioner.

(d) Any person or care provider having the care, custody or control of the ward.

(e) Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.

(f) *The Director of the Department of Health and Human Services if the ward has received or is receiving any benefits from Medicaid.*

(g) Any other interested person or his attorney who has filed a request for notice in the guardianship proceeding and served a copy of the request upon

the guardian. The request for notice must state the interest of the person filing the request, and his name and address, or that of his attorney. If the notice so requests, copies of all petitions and accounts must be mailed to the interested person or his attorney.

4. An interested person who is entitled to notice pursuant to subsection 3 may, in writing, waive notice of the hearing of a petition.

5. Proof of giving notice must be:

(a) Made on or before the date set for the hearing; and

(b) Filed in the guardianship proceeding.

~~[Sec. 19.]~~ *Sec. 21.* NRS 239A.070 is hereby amended to read as follows:

239A.070 This chapter does not apply to any subpoena issued pursuant to title 14 or chapters 616A to 617, inclusive, of NRS or prohibit:

1. Dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.

2. The Attorney General, district attorney, Department of Taxation, *Director of the Department of Health and Human Services*, public administrator, sheriff or a police department from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.

3. A financial institution, in its discretion, from initiating contact with and thereafter communicating with and disclosing the financial records of a customer to appropriate governmental agencies concerning a suspected violation of any law.

4. Disclosure of the financial records of a customer incidental to a transaction in the normal course of business of the financial institution if the director, officer, employee or agent of the financial institution who makes or authorizes the disclosure has no reasonable cause to believe that such records will be used by a governmental agency in connection with an investigation of the customer.

5. A financial institution from notifying a customer of the receipt of a subpoena or a search warrant to obtain his financial records, except when ordered by a court to withhold such notification.

6. The examination by or disclosure to any governmental regulatory agency of financial records which relate solely to the exercise of its regulatory function if the agency is specifically authorized by law to examine, audit or require reports of financial records of financial institutions.

7. The disclosure to any governmental agency of any financial information or records whose disclosure to that particular agency is required by the tax laws of this State.

8. The disclosure of any information pursuant to NRS 425.393, 425.400 or 425.460.

9. A governmental agency from obtaining a credit report or consumer credit report from anyone other than a financial institution.

~~[Sec. 20.]~~ Sec. 22. NRS 239A.075 is hereby amended to read as follows:

239A.075 Upon presentation of a death certificate, affidavit of death or other proof of death, a financial institution shall provide *the Director of the Department of Health and Human Services or* a public administrator with a statement which sets forth the identifying number and account balance of any accounts on which only the name of the deceased person appears. A financial institution may charge a reasonable fee, not to exceed \$2, to provide a public administrator with a statement pursuant to the provisions of this section.

~~[Sec. 21.]~~ Sec. 23. NRS 357.040 is hereby amended to read as follows:

357.040 1. Except as otherwise provided in NRS 357.050, a person who, with or without specific intent to defraud, does any of the following listed acts is liable to the State or a political subdivision, whichever is affected, for three times the amount of damages sustained by the State or political subdivision because of the act of that person, for the costs of a civil action brought to recover those damages and for a civil penalty of not less than ~~[\$2,000]~~ \$5,000 or more than \$10,000 for each act:

(a) Knowingly presents or causes to be presented a false claim for payment or approval.

(b) Knowingly makes or uses, or causes to be made or used, a false record or statement to obtain payment or approval of a false claim.

(c) Conspires to defraud by obtaining allowance or payment of a false claim.

(d) Has possession, custody or control of public property or money and knowingly delivers or causes to be delivered to the State or a political subdivision less money or property than the amount for which he receives a receipt.

(e) Is authorized to prepare or deliver a receipt for money or property to be used by the State or a political subdivision and knowingly prepares or delivers a receipt that falsely represents the money or property.

(f) Knowingly buys, or receives as security for an obligation, public property from a person who is not authorized to sell or pledge the property.

(g) Knowingly makes or uses, or causes to be made or used, a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the State or a political subdivision.

(h) Is a beneficiary of an inadvertent submission of a false claim and, after discovering the falsity of the claim, fails to disclose the falsity to the State or political subdivision within a reasonable time.

2. As used in this section, a person acts "knowingly" with respect to information if he:

(a) Has knowledge of the information;

(b) Acts in deliberate ignorance of whether the information is true or false;
or

(c) Acts in reckless disregard of the truth or falsity of the information.

~~[Sec. 22.]~~ Sec. 24. NRS 357.070 is hereby amended to read as follows:

357.070 The Attorney General ~~[may]~~ *shall* investigate any alleged liability pursuant to this chapter and may bring a civil action pursuant to this chapter against the person liable.

~~[Sec. 23.]~~ Sec. 25. NRS 357.080 is hereby amended to read as follows:

357.080 1. Except as otherwise provided in this section and NRS 357.090 and 357.100, a private plaintiff may maintain an action pursuant to this chapter on his own account and that of the State if money, property or services provided by the State are involved, or on his own account and that of a political subdivision if money, property or services provided by the political subdivision are involved, or on his own account and that of both the State and a political subdivision if both are involved. After such an action is commenced, it may be dismissed only with leave of the court, taking into account the public purposes of this chapter and the best interests of the parties.

2. If a private plaintiff brings an action pursuant to this chapter, no other person may bring another action pursuant to this chapter based on the same facts.

3. An action may not be maintained by a private plaintiff pursuant to this chapter:

(a) Against a member of the Legislature or the Judiciary, an elected officer of the Executive Department of the State Government, or a member of the governing body of a political subdivision, if the action is based upon evidence or information known to the State or political subdivision at the time the action was brought.

(b) If the action is based upon allegations or transactions that are the subject of a civil action or an administrative proceeding for a monetary penalty to which the State or political subdivision is already a party.

4. A complaint filed pursuant to this section must be placed under seal and so remain *for at least 60 days or* until the Attorney General has elected whether to intervene. No service may be made upon the defendant until the complaint is unsealed.

5. On the date the private plaintiff files his complaint, he shall send a copy of the complaint to the Attorney General by mail with return receipt requested. He shall send with each copy of the complaint a written disclosure of substantially all material evidence and information he possesses.

6. *An action pursuant to this chapter may be brought in any judicial district in this State in which the defendant can be found, resides, transacts business or in which any of the alleged fraudulent activities occurred.*

~~[Sec. 24.]~~ Sec. 26. NRS 357.110 is hereby amended to read as follows:

357.110 1. Within ~~[120]~~ 60 days after receiving a complaint and disclosure, the Attorney General may intervene and proceed with the action or he may, for good cause shown, move the court to extend the time for his election whether to proceed. The motion may be supported by affidavits or other submissions in chambers.

2. If the Attorney General elects to intervene, the complaint must be unsealed. If the Attorney General elects not to intervene, the private plaintiff may proceed and the complaint must be unsealed.

~~[Sec. 25.]~~ Sec. 27. NRS 357.170 is hereby amended to read as follows:

357.170 1. An action pursuant to this chapter may not be commenced more than 3 years after the date ~~[of discovery of the fraudulent activity by]~~ *on which the Attorney General discovers, or reasonably should have discovered, the fraudulent activity* or more than ~~[5]~~ 6 years after the fraudulent activity occurred, ~~[whichever is earlier.]~~ *but in no event more than 10 years after the fraudulent activity occurred.* Within those limits, an action may be based upon fraudulent activity that occurred before ~~[October 1, 1999.]~~ *July 1, 2007.*

2. In an action pursuant to this chapter, the standard of proof is a preponderance of the evidence. A finding of guilt in a criminal proceeding charging false statement or fraud, whether upon a verdict of guilty or a plea of guilty or nolo contendere, estops the person found guilty from denying an essential element of that offense in an action pursuant to this chapter based upon the same transaction as the criminal proceeding.

~~[Sec. 26.]~~ Sec. 28. NRS 361.585 is hereby amended to read as follows:

361.585 1. When the time allowed by law for the redemption of a property described in a certificate has expired, and no redemption has been made, the tax receiver who issued the certificate, or his successor in office, shall execute and deliver to the county treasurer a deed of the property in trust for the use and benefit of the State and county and any officers having fees due them.

2. The county treasurer and his successors in office, upon obtaining a deed of any property in trust under the provisions of this chapter, shall hold that property in trust until it is sold or otherwise disposed of pursuant to the provisions of this chapter.

3. Notwithstanding the provisions of NRS 361.595 or 361.603, at any time during the 90-day period specified in NRS 361.603, or before the public notice of sale by a county treasurer, pursuant to NRS 361.595, of any property held in trust by him by virtue of any deed made pursuant to the provisions of this chapter, any person specified in subsection 4 is entitled to have the property reconveyed upon payment to the county treasurer of an amount equal to the taxes accrued, together with any costs, penalties and

interest legally chargeable against the property. A reconveyance may not be made after expiration of the 90-day period specified in NRS 361.603 or after commencement of posting or publication of public notice pursuant to NRS 361.595.

4. Property may be reconveyed pursuant to subsection 3 to one or more of the persons specified in the following categories, or to one or more persons within a particular category, as their interests may appear of record:

- (a) The owner.
- (b) The beneficiary under a deed of trust.
- (c) The mortgagee under a mortgage.
- (d) The person to whom the property was assessed.
- (e) The person holding a contract to purchase the property before its conveyance to the county treasurer.

(f) *The Director of the Department of Health and Human Services if the owner has received or is receiving any benefits from Medicaid.*

(g) The successor in interest of any person specified in this subsection.

5. Any agreement to locate, deliver, recover or assist in the recovery of any property held in trust by a county treasurer by virtue of any deed made pursuant to the provisions of this chapter:

- (a) Must:
 - (1) Be in writing.
 - (2) Be signed by one or more of the persons identified in subsection 4.
 - (3) Include a description of the property.
 - (4) Include the value of the property.
- (b) Must not impose a fee that is more than 10 percent of the total value of the property.

6. The provisions of this section apply to land held in trust by a county treasurer on or after April 17, 1971.

~~[Sec. 27.]~~ Sec. 29. NRS 439B.360 is hereby amended to read as follows:

439B.360 1. The Director shall evaluate the effectiveness of the program established pursuant to NRS 439B.350 annually. The evaluation must include, without limitation ~~[-~~

~~(a) Determining the total number of children under the age of 13 years who reside in this State and the number of such children who have received health care services through a federal, state or local governmental program during the previous year; and~~

~~(b) Measuring]~~, measuring the effectiveness of the content, form and method of dissemination of information through the program.

2. The Director shall make any necessary recommendations to improve the program based upon his evaluation.

3. On or before December 31 of each year, the Director shall provide a written report to the Interim Finance Committee concerning the results of the evaluation and any recommendations made to improve the program.

~~[Sec. 28.]~~ *Sec. 30.* NRS 449.188 is hereby amended to read as follows:

449.188 1. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate a facility for intermediate care, facility for skilled nursing or residential facility for groups to an applicant or may suspend or revoke the license of a licensee to operate such a facility if:

(a) The applicant or licensee has been convicted of:

- (1) Murder, voluntary manslaughter or mayhem;
- (2) Assault with intent to kill or to commit sexual assault or mayhem;
- (3) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;
- (4) Abuse or neglect of a child or contributory delinquency;
- (5) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, within the past 7 years;
- (6) A violation of any provision of NRS 200.50955 or 200.5099;
- (7) *A violation of any provision of NRS 422.450 to 422.590, inclusive;*
- (8) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property, within the immediately preceding 7 years; or

~~[(8)]~~ (9) Any other felony involving the use of a firearm or other deadly weapon, within the immediately preceding 7 years; or

(b) The licensee has continued to employ a person who has been convicted of a crime listed in paragraph (a).

2. In addition to the grounds listed in NRS 449.160, the Health Division may deny a license to operate an agency to provide personal care services in the home or an agency to provide nursing in the home to an applicant or may suspend or revoke the license of a licensee to operate such an agency if the licensee has continued to employ a person who has been convicted of a crime listed in paragraph (a) of subsection 1.

~~[Sec. 29.]~~ *Sec. 31.* NRS 689A.430 is hereby amended to read as follows:

689A.430 1. An insurer shall not, when considering eligibility for coverage or making payments under a policy of health insurance, consider the availability of, or eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, an insurer, *self-insured plan*, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, ~~[(29 U.S.C.A. § 1167(1), D-)]~~ service benefit plan ~~[, health maintenance organization]~~ or other organization that has issued a policy of health insurance:

(a) Shall treat Medicaid as having a valid and enforceable assignment of an insured's benefits regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by the policy, evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any right of a recipient of Medicaid to reimbursement against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its insured.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by a policy of health insurance,

↪ the insurer that issued the policy shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by the policy.

4. *If a state agency is assigned any rights of an insured who is eligible for medical assistance under Medicaid, an insurer shall:*

(a) Upon request of the state agency, provide to the state agency information regarding the insured to determine:

(1) Any period during which the insured, his spouse or dependent may be or may have been covered by the insurer; and

(2) The nature of the coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured and the identifying number of the policy, evidence of coverage or contract;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~{Sec. 30.}~~ Sec. 32. NRS 689B.300 is hereby amended to read as follows:

689B.300 1. An insurer shall not, when considering eligibility for coverage or making payments under a group health policy, consider the availability of, or eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, an insurer, *self-insured plan*, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 , ~~§~~ 29 U.S.C.A.

§ 1167(1) , ~~/), health maintenance organization]~~ or other organization that has issued a group health policy:

(a) Shall treat Medicaid as having a valid and enforceable assignment of an insured's benefits regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by the policy, evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any rights of a recipient of Medicaid to reimbursement against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its insured.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by a group health policy,

→ the insurer that issued the policy shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by the policy.

4. *If a state agency is assigned any rights of an insured who is eligible for medical assistance under Medicaid, an insurer shall:*

(a) Upon request of the state agency, provide to the state agency information regarding the insured to determine:

(1) Any period during which the insured, his spouse or dependent may be or may have been covered by the insurer; and

(2) The nature of the coverage that is or was provided by the insurer, including, without limitation, the name and address of the insured and the identifying number of the policy;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 31]~~ Sec. 33. NRS 695A.151 is hereby amended to read as follows:

695A.151 1. A society shall not, when considering eligibility for coverage or making payments under a certificate for health benefits, consider

the availability of, or eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, a society:

(a) Shall treat Medicaid as having a valid and enforceable assignment of an insured's benefits regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by its certificate for health benefits, evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any reimbursement rights of a recipient of Medicaid against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its insured.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by a certificate for health benefits,

→ the society that issued the health policy shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by the certificate.

4. *If a state agency is assigned any rights of an insured who is eligible for medical assistance under Medicaid, a society that issues a certificate for health benefits, evidence of coverage or contract shall:*

(a) Upon request of the state agency, provide to the state agency information regarding the insured to determine:

(1) Any period during which the insured, his spouse or dependent may be or may have been covered by the society; and

(2) The nature of the coverage that is or was provided by the society, including, without limitation, the name and address of the insured and the identifying number of the certificate for health benefits, evidence of coverage or contract;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 32.]~~ Sec. 34. NRS 695B.340 is hereby amended to read as follows:

695B.340 1. A corporation shall not, when considering eligibility for coverage or making payments under a contract, consider the availability of, or any eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, a corporation:

(a) Shall treat Medicaid as having a valid and enforceable assignment of benefits of a subscriber or policyholder or claimant under him regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by the policy, evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any rights of a recipient of Medicaid against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its subscriber or policyholder.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by a contract,

→ the corporation that issued the contract shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by the same contract.

4. *If a state agency is assigned any rights of a subscriber or policyholder who is eligible for medical assistance under Medicaid, a corporation shall:*

(a) Upon request of the state agency, provide to the state agency information regarding the subscriber or policyholder to determine:

(1) Any period during which the subscriber or policyholder, his spouse or dependent may be or may have been covered by a contract; and

(2) The nature of the coverage that is or was provided by the corporation, including, without limitation, the name and address of the subscriber or policyholder and the identifying number of the contract;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 33.]~~ Sec. 35. NRS 695C.163 is hereby amended to read as follows:

695C.163 1. A health maintenance organization shall not, when considering eligibility for coverage or making payments under a health care plan, consider the availability of, or eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, a health maintenance organization:

(a) Shall treat Medicaid as having a valid and enforceable assignment of benefits due an enrollee or claimant under him regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by its plan, evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any rights of a recipient of Medicaid to reimbursement against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its enrollee.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by a health care plan,

↪ the organization responsible for the health care plan shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by the same plan.

4. *If a state agency is assigned any rights of an enrollee who is eligible for medical assistance under Medicaid, a health maintenance organization shall:*

(a) Upon request of the state agency, provide to the state agency information regarding the enrollee to determine:

(1) Any period during which the enrollee, his spouse or dependent may be or may have been covered by the health care plan; and

(2) The nature of the coverage that is or was provided by the organization, including, without limitation, the name and address of the enrollee and the identifying number of the health care plan;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and

(2) Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.

~~[Sec. 34.]~~ Sec. 36. NRS 695F.440 is hereby amended to read as follows:

695F.440 1. An organization shall not, when considering eligibility for coverage or making payments under any evidence of coverage, consider the availability of, or eligibility of a person for, medical assistance under Medicaid.

2. To the extent that payment has been made by Medicaid for health care, a prepaid limited health service organization:

(a) Shall treat Medicaid as having a valid and enforceable assignment of benefits due a subscriber or claimant under him regardless of any exclusion of Medicaid or the absence of a written assignment; and

(b) May, as otherwise allowed by its evidence of coverage or contract and applicable law or regulation concerning subrogation, seek to enforce any rights of a recipient of Medicaid against any other liable party if:

(1) It is so authorized pursuant to a contract with Medicaid for managed care; or

(2) It has reimbursed Medicaid in full for the health care provided by Medicaid to its subscriber.

3. If a state agency is assigned any rights of a person who is:

(a) Eligible for medical assistance under Medicaid; and

(b) Covered by any evidence of coverage,

↪ the prepaid limited health service organization that issued the evidence of coverage shall not impose any requirements upon the state agency except requirements it imposes upon the agents or assignees of other persons covered by any evidence of coverage.

4. *If a state agency is assigned any rights of a subscriber who is eligible for medical assistance under Medicaid, a prepaid limited health service organization shall:*

(a) Upon request of the state agency, provide to the state agency information regarding the subscriber to determine:

(1) Any period during which the subscriber, his spouse or dependent may be or may have been covered by the organization; and

(2) The nature of the coverage that is or was provided by the organization, including, without limitation, the name and address of the subscriber and the identifying number of the evidence of coverage;

(b) Respond to any inquiry by the state agency regarding a claim for payment for the provision of any medical item or service not later than 3 years after the date of the provision of the medical item or service; and

(c) Agree not to deny a claim submitted by the state agency solely on the basis of the date of submission of the claim, the type or format of the claim form or failure to present proper documentation at the point of sale that is the basis for the claim if:

(1) *The claim is submitted by the state agency not later than 3 years after the date of the provision of the medical item or service; and*

(2) *Any action by the state agency to enforce its rights with respect to such claim is commenced not later than 6 years after the submission of the claim.*

~~[Sec. 35.]~~ Sec. 37. This act becomes effective on July 1, 2007.

Senator Washington moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 529.

Remarks by Senator Washington.

Motion carried.

Bill ordered transmitted to the Assembly.

RECEDE FROM SENATE AMENDMENTS

Senator Amodei moved that the Senate do not recede from its action on Assembly Bill No. 418, that a conference be requested, and that Mr. President appoint a first Conference Committee consisting of three members to meet with a like committee of the Assembly.

Remarks by Senator Amodei.

Motion carried.

Bill ordered transmitted to the Assembly.

APPOINTMENT OF CONFERENCE COMMITTEES

President Krolicki appointed Senators Amodei, Care and McGinness as a first Conference Committee to meet with a like committee of the Assembly for the further consideration of Assembly Bill No. 418.

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

Motion carried.

Senate in recess at 12:16 p.m.

SENATE IN SESSION

At 12:24 p.m.

President Krolicki presiding.

Quorum present.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Finance, to which were referred Senate Bill No. 555; Assembly Bill No. 212, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM J. RAGGIO, *Chair*

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Taxation (by emergency request of Assembly Minority Leader):

Senate Bill No. 574—AN ACT relating to governmental finances; providing for the reallocation of existing revenue from taxes on transient

lodging in certain counties to fund transportation projects in those counties; requiring analyses of the costs and benefits of proposals for certain highway projects; requiring annual performance measurements of and various periodic reports by the Department of Transportation and the appointment of an interim legislative subcommittee to oversee the activities and performance of the Department; directing the Legislative Commission to appoint a legislative committee to conduct an interim study on tolling projects; and providing other matters properly relating thereto.

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

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 189.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1038.

"SUMMARY—Makes an appropriation to the ~~[Department of Wildlife]~~ Interim Finance Committee for the implementation of sagebrush habitat projects. (BDR S-1224)"

"AN ACT making an appropriation to the Interim Finance Committee for allocation to the Department of Wildlife for the implementation of sagebrush habitat projects; and providing other matters properly relating thereto."

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. 1. There is hereby appropriated from the State General Fund to the ~~[Department of Wildlife]~~ Interim Finance Committee the sum of \$200,800 for allocation to the Department of Wildlife to support implementation of sagebrush habitat projects identified in State and local plans.

2. Money appropriated pursuant to subsection 1 may only be allocated upon:

(a) Submittal by the Department of Wildlife of a detailed plan with cost estimates referencing the specific sagebrush habitat projects identified in the state and local sage grouse conservation plans that will be implemented;

(b) Approval of the plan and recommendation of the allocation by the State Board of Examiners; and

(c) Approval of the plan and allocation by the Interim Finance Committee. The Interim Finance Committee is not bound to follow the recommendation of the State Board of Examiners.

3. Money appropriated and allocated pursuant to this section may only be used to satisfy the requirements for matching funds pursuant to the Federal Aid in Wildlife Restoration Act for implementation of the identified sagebrush habitat projects.

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

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

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 192.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 956.

"SUMMARY—Makes an appropriation to the Nevada System of Higher Education to fund a portion of the cost of the integration of computing resources. (BDR S-1209)"

"AN ACT making an appropriation to the Nevada System of Higher Education to fund a portion of the cost of the integration of computing resources; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the Nevada System of Higher Education the sum of \$10,000,000 to fund the integration of computing resources. The Nevada System of Higher Education shall not expend any portion of the amount appropriated pursuant to this section until it has expended \$15,000,000 for this purpose from other sources.

Sec. 2. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, ~~2009~~, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September ~~18, 2009~~, 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September ~~18, 2009~~, 16, 2011.

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

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 341.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1057.

"SUMMARY—Makes supplemental appropriations to the Office of the Attorney General. (BDR S-1243)"

"AN ACT making supplemental appropriations to the Office of the Attorney General; and providing other matters properly relating thereto."

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

Section 1. 1. There is hereby appropriated from the State General Fund to the Office of the Attorney General's administration account the sum of \$685,979 for a cost allocation posting error in the amount of \$482,979, and a shortfall in revenue received from boards and commissions in the amount of \$203,000. This appropriation is supplemental to that made by section 4 of chapter 434, Statutes of Nevada 2005, at page 1936.

2. There is hereby appropriated from the State General Fund to the Office of the Attorney General's special litigation account the sum of ~~[\$600,000]~~ \$200,000 for costs relating to Yucca Mountain nuclear waste litigation. This appropriation is supplemental to that made by section 4 of chapter 434, Statutes of Nevada 2005, at page 1936.

3. There is hereby appropriated from the State General Fund to the Office of the Extradition Coordinator in the Office of the Attorney General the sum of \$227,386 to replenish Fiscal Year 2006-2007 extradition funds used in 2006, and to supplement funds for Fiscal Year 2006-2007 due to increased extradition costs. This appropriation is supplemental to that made by section 4 of chapter 434, Statutes of Nevada 2005, at page 1936.

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

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 464.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 973.

"SUMMARY—Makes an appropriation to the Disaster Relief Account. (BDR S-1239)"

"AN ACT making an appropriation to the Disaster Relief Account; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the Disaster Relief Account created pursuant to NRS 353.2735 the sum of ~~[\$7,427,042]~~ \$1,427,042 to replenish the balance of the Account.

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

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 468.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1058.

"SUMMARY—Makes a supplemental appropriation to the Office of Veterans' Services for unanticipated shortfalls in Fiscal Year 2006-2007 for ~~personnel services and~~ utility costs. (BDR S-1422)"

"AN ACT making a supplemental appropriation to the Office of Veterans' Services for unanticipated shortfalls in Fiscal Year 2006-2007 for ~~personnel services and~~ utility costs; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the Office of Veterans' Services the sum of ~~[\$224,196]~~ \$151,814 for the Veterans' Home Account to cover unanticipated shortfalls in Fiscal Year 2006-2007 for ~~personnel services and~~ utility costs. This appropriation is supplemental to that made by section 22 of chapter 434, Statutes of Nevada 2005, at page 1941.

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

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 571.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1037.

"SUMMARY—Makes a contingent appropriation to the Interim Finance Committee for a portion of the costs of constructing a courthouse in White Pine County. (BDR S-1230)"

"AN ACT making a contingent appropriation to the Interim Finance Committee for a portion of the costs of constructing a courthouse in White Pine County; and providing other matters properly relating thereto."

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

Section 1. 1. There is hereby appropriated from the State General Fund to the Interim Finance Committee for distribution ~~[in Fiscal Year 2008]~~ to White Pine County the sum of \$6,500,000 for the construction of a courthouse.

2. White Pine County may use the money appropriated by subsection 1 only if matching money is provided by White Pine County from sources other than the appropriation made by subsection 1. White Pine County shall submit proof satisfactory to the Interim Finance Committee that the matching money has been committed from other sources before the money appropriated may be distributed. A portion of the matching money may consist of in-kind contributions if approved by the Interim Finance Committee.

3. A request for distribution of the money appropriated by subsection 1 must be submitted to the State Board of Examiners by White Pine County. The State Board of Examiners shall consider the request, may require from White Pine County such additional information as it deems appropriate, and shall, if it finds that the distribution should be made, recommend the amount of the distribution to the Interim Finance Committee for its independent evaluation and action. The Interim Finance Committee is not bound to follow the recommendation of the State Board of Examiners.

4. Upon its review of the request for distribution and the recommendation of the State Board of Examiners, the Interim Finance Committee shall, if it finds that a distribution should be made, distribute to White Pine County an amount equal to the actual cost for the work performed, up to the amount appropriated pursuant to subsection 1, contingent upon the receipt of actual billings for that work submitted by White Pine County to the Fiscal Analysis Division of the Legislative Counsel Bureau.

Sec. 2. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

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

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 161.

Bill read second time.

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

Amendment No. 990.

"SUMMARY—Revises various provisions governing insurance. (BDR 57-586)"

"AN ACT relating to insurance; making various changes relating to persons licensed or regulated by the Commissioner of Insurance; authorizing the Commissioner to conduct certain investigations; increasing the maximum annual assessment on member insurers of the Nevada Life and Health Insurance Guaranty Association; revising provisions governing policies of various types of insurance; revising reporting requirements for an insurer that issues a policy of insurance covering the liability of a physician or osteopathic physician; making certain provisions applicable to title insurers, title agents and escrow officers; requiring a motor club to pay an administrative penalty for failing to pay an annual fee to the Commissioner timely; revising provisions governing claims against an insolvent insurer; making certain provisions applicable to licensed bail agents, bail solicitors, bail enforcement agents and general agents; repealing the requirement that a trustee of a medical savings account file an annual report with the Commissioner; increasing the number of deputies that the Commissioner may appoint; revising various provisions governing industrial insurance; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Commissioner of Insurance is authorized to conduct examinations of insurers and certain other persons. (NRS 679B.230-679B.300) Section 1 of this bill authorizes the Commissioner to conduct investigations, both within and outside this State, of insurers and certain other persons.

Existing law establishes certain requirements for business organizations to be licensed as producers of insurance. (NRS 683A.251) Sections 1.3 and 2 of this bill require such a business organization to report to the Commissioner ~~[of Insurance]~~ when another producer of insurance is authorized to act on its behalf and when such authorization is terminated.

Under existing law, insurers are required to be members of the Nevada Life and Health Insurance Guaranty Association. Member insurers are required to pay an annual assessment to the Association. (NRS 686C.240) Section 7 of this bill increases the maximum amount of such an assessment.

Existing law requires that an insurer which issues a policy covering the liability of a physician or osteopathic physician file a report with the Commissioner whenever a claim on the policy is closed. (NRS 690B.260) Section 16 of this bill changes the filing requirement to require that such a report be filed at the end of each calendar quarter on all claims closed during that quarter.

Existing law requires captive insurers to maintain certain levels of unimpaired paid-in capital and unencumbered surplus. (NRS 694C.250,

694C.260) Additionally, certain captive insurers are required to submit to the Commissioner an annual report on their financial condition. Section 19 of this bill increases the required levels of such capital and surplus. Section 23 of this bill applies the reporting requirement of captive insurers to sponsored captive insurers.

Existing law governs the filing of claims against an insurer against which delinquency proceedings have begun. Currently, claims are filed with the receiver and a court determines the validity of the claim. (NRS 696B.330) Existing law establishes classes for the order of priority for distribution of the assets of an insurer to claimants against the insurer. (NRS 696B.420) Section 27 of this bill requires the receiver to determine the validity of a claim and to determine the priority of the claim. If a person objects to the determination of the receiver, the determination may be appealed to a court.

Existing law defines "tangible net worth" for the purposes of industrial insurance to include all assets of an association of self-insured private employers or of a member of such an association, but excepts a number of assets from the definition. (NRS 616A.330) Section 29 of this bill removes most of the exceptions.

Existing law authorizes the Commissioner to appoint two deputies. Section 31 of this bill authorizes the Commissioner to appoint one additional deputy.

Existing law requires a trustee of a medical savings account to file an annual report with the Commissioner. (NRS 689A.735) Section 32 of this bill repeals that requirement.

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

Section 1. Chapter 679B of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commissioner may conduct investigations to determine whether any insurer or person identified in NRS 679B.230 or 679B.240 has violated any provision of this Code.

2. The Commissioner may:

(a) Use employees of the Division as investigators; or

(b) Contract with and procure the services of such investigators as he may reasonably require to conduct investigations. The Commissioner shall determine the qualifications required of such investigators, except that no investigator who provides services pursuant to this paragraph may be in the classified service of the State.

3. Investigations may be conducted into activities occurring either within or outside this State. In conducting investigations, the Commissioner and his investigators may:

(a) Travel within or outside this State; and

(b) Cooperate with appropriate agencies or persons within or outside this State.

4. Investigations may be conducted before, during or after an examination conducted pursuant to this Code.

5. The provisions governing examinations set forth in NRS 679B.250, 679B.285 and 679B.287 apply to investigations conducted pursuant to this section.

6. The expenses of an investigation conducted pursuant to this section must be borne by the person investigated in the same manner as provided for examinations in NRS 679B.290.

7. The expenses paid by a person investigated pursuant to this section must be deposited in the State Treasury for credit to the Insurance Examination Fund created by NRS 679B.300, accounted for separately and used for the payment of investigation expenses. Payment of the expenses of an investigation pursuant to this section must be paid out of the Insurance Examination Fund as other claims against the State are paid.

~~[Section 4.]~~ Sec. 1.03. NRS 681B.050 is hereby amended to read as follows:

681B.050 1. As to casualty insurance transacted by it, each insurer shall maintain at all times reserves in an amount estimated in the aggregate to provide for payment of all losses and claims incurred, whether reported or unreported, which are unpaid and for which the insurer may be liable and to provide for the expenses of adjustment or settlement of losses and claims. The reserves must be computed in accordance with regulations adopted from time to time by the Commissioner upon reasonable consideration of the ascertained experience and the character of such kind of business for the purpose of adequately protecting the insured and the solvency of the insurer.

2. Whenever the loss and loss expense experience of the insurer show that reserves, calculated in accordance with those regulations, are inadequate, the Commissioner may require the insurer to maintain additional reserves.

3. ~~[The minimum reserve requirements prescribed by the Commissioner for unpaid losses and loss expenses incurred during each of the most recent 3 years for coverages included in the lines of business described in the insurer's annual statement as workmen's compensation, liability other than automobile (B.I.), and automobile liability (B.I.) must not be less than the following: For workmen's compensation, 65 percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during the year; for liability other than automobile (B.I.) and automobile liability (B.I.), 60 percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during the year.]~~

~~4.]~~ The Commissioner may, by regulation, prescribe the manner and form of reporting pertinent information concerning the reserves provided for in this section.

Sec. 1.05. NRS 682A.280 is hereby amended to read as follows:

682A.280 1. In addition to investments excluded pursuant to other provisions of this Code, an insurer shall not acquire, invest in or lend its funds upon the security of:

(a) Issued shares of its own capital stock, except as *otherwise* provided in NRS 693A.170 (purchase of own shares by stock insurer). No such shares shall be considered as an asset of the insurer in any determination of its financial condition.

(b) Securities issued by any corporation or enterprise the controlling interest of which is, or will after such acquisition by the insurer be, held directly or indirectly by the insurer or any combination of the insurer and the insurer's directors, officers, subsidiaries or controlling stockholders ~~and~~ other than a parent corporation ~~and~~ and the spouses and children of any of the foregoing individuals. Investments in controlled insurance corporations or subsidiaries under NRS 682A.120 and 682A.130 are not subject to the provisions of this section.

(c) Any note or other evidence of indebtedness of any director, officer, employee or controlling stockholder of the insurer, or of the spouse or child of any of the foregoing individuals, except as to ~~policy~~ :

(1) Policy loans authorized under NRS 682A.170 ~~and~~ or

(2) Loans on the same terms and conditions as any other borrower which have been approved by a majority vote of the board of directors of the insurer.

(d) Any real property in which any officer or director of the insurer has a financial interest.

2. No insurer shall underwrite or participate in the underwriting of an offering of securities or property of any other person. This section shall not be deemed to prohibit the insurer from being a subsidiary which is the principal underwriter of a registered investment company (mutual fund).

3. No insurer shall enter into any agreement to withhold from sale any of its securities or property, and the disposition of its assets shall at all times be within the control of the insurer.

Sec. 1.1. Chapter 683A of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.5 of this act.

Sec. 1.3. 1. *A business organization which is licensed as a producer of insurance and which authorizes another producer of insurance to transact business on its behalf shall notify the Commissioner within 15 days after the effective date of the authorization in the manner prescribed by the Commissioner.*

2. *A business organization which is licensed as a producer of insurance and which terminates the authorization of a producer of insurance for any reason shall notify the Commissioner within 30 days after the effective date of the termination in the manner prescribed by the Commissioner. The business organization shall provide additional information or documents if so requested in writing by the Commissioner.*

3. *If the reason for termination is an activity described in NRS 683A.451 as a cause for disciplinary action or the business organization knows that the producer of insurance has been found to have engaged in such an activity by a court, governmental agency or self-regulatory organization authorized by law, the business organization shall notify the Commissioner, in the manner prescribed by the Commissioner, if the business organization discovers additional information that would have been reportable originally to the Commissioner if the business organization had then known it.*

Sec. 1.5. 1. *If an administrator establishes a panel of providers of health care or contracts with an organization that establishes a panel of providers of health care, the administrator shall not charge a provider of health care or such an organization:*

(a) Any fee to include the name of the provider of health care on the panel; or

(b) Any other fee related to establishing the provider of health care as a provider on the panel.

2. *If an administrator violates the provisions of subsection 1, the administrator shall pay to the provider of health care or organization, as appropriate, an amount that is equal to twice the fee charged to the provider of health care or the organization.*

3. *A court shall award costs and reasonable attorney's fees to the prevailing party in any action brought to enforce the provisions of this section.*

4. *In addition to any relief granted pursuant to this section, if an administrator violates the provisions of subsection 1, the Division shall require the administrator to suspend the prohibited activities until the administrator, as determined by the Division:*

(a) Complies with the provisions of subsection 1; and

(b) Refunds to all providers of health care or organizations, as appropriate, all fees obtained by the administrator in violation of subsection 1.

Sec. 1.7. NRS 683A.0805 is hereby amended to read as follows:

683A.0805 As used in NRS 683A.0805 to 683A.0893, inclusive, and section 1.5 of this act, unless the context otherwise requires, the words and terms defined in NRS 683A.081 to 683A.084, inclusive, have the meanings ascribed to them in those sections.

Sec. 1.9. NRS 683A.08528 is hereby amended to read as follows:

683A.08528 1. Not later than July 1 of each year, each holder of a certificate of registration as an administrator shall file with the Commissioner an annual report for the most recently completed fiscal year of the administrator. Each annual report must be verified by at least two officers of the administrator.

2. Each annual report filed pursuant to this section must include all the following:

(a) ~~[Except as otherwise provided in this paragraph, a] A financial statement of the administrator that has been [audited and prepared by an independent certified public accountant. In lieu of a financial statement that has been audited and prepared by an independent certified public accountant, the administrator may include with the annual report a financial statement that has been]~~ reviewed by an independent certified public accountant. ~~[if:~~

~~(1) The total business assets of the administrator were less than \$100,000 at the end of the most recently completed fiscal year of the administrator; or~~

~~(2) The administrator did not have any agreements to act as an administrator during the most recently completed fiscal year of the administrator.]~~

(b) The complete name and address of each person, if any, for whom the administrator agreed to act as an administrator during the most recently completed fiscal year of the administrator.

(c) Any other information required by the Commissioner.

3. In addition to the information required pursuant to subsection 2, if an annual report is prepared on a consolidated basis, the annual report must include a columnar or combining worksheet that:

(a) Includes the amounts shown on the consolidated financial statement accompanying the annual report;

(b) Separately sets forth the amounts for each entity included in the worksheet; and

(c) Includes an explanation of each consolidating and eliminating entry included in the worksheet.

4. Each administrator who files an annual report pursuant to this section shall, at the time of filing the annual report, pay a filing fee in an amount determined by the Commissioner.

5. ~~[On or before September 1 of each year, the]~~ The Commissioner shall, for each administrator, review the annual report that is most recently filed by the administrator. As soon as practicable after reviewing the report, the Commissioner shall:

(a) Issue a certificate to the administrator:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is currently licensed and in good standing in this State; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement; or

(b) Submit a statement to any electronic database maintained by the National Association of Insurance Commissioners or any affiliate or subsidiary of the Association:

(1) Indicating that, based on the annual report and accompanying financial statement, the administrator has a positive net worth and is in compliance with existing law; or

(2) Setting forth any deficiency found by the Commissioner in the annual report and accompanying financial statement.

Sec. 2. NRS 683A.251 is hereby amended to read as follows:

683A.251 1. The Commissioner shall prescribe the form of application by a natural person for a license as a resident producer of insurance. The applicant must declare, under penalty of refusal to issue, or suspension or revocation of, the license, that the statements made in the application are true, correct and complete to the best of his knowledge and belief. Before approving the application, the Commissioner must find that the applicant has:

- (a) Attained the age of 18 years;
- (b) Not committed any act that is a ground for refusal to issue, or suspension or revocation of, a license;
- (c) Completed a course of study for the lines of authority for which the application is made, unless the applicant is exempt from this requirement;
- (d) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; and
- (e) Successfully passed the examinations for the lines of authority for which application is made, unless the applicant is exempt from this requirement.

2. A business organization must be licensed as a producer of insurance in order to act as such. Application must be made on a form prescribed by the Commissioner. Before approving the application, the Commissioner must find that the applicant has:

- (a) Paid the fee prescribed for the license and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account, neither of which may be refunded; ~~and~~

- (b) Designated a natural person who is licensed as a producer of insurance and who is ~~[affiliated with]~~ *authorized to transact business on behalf of* the business organization to be responsible for the organization's compliance with the laws and regulations of this State relating to insurance ~~[-]~~; *and*

- (c) *If the business organization has authorized a producer of insurance not designated pursuant to paragraph (b) to transact business on behalf of the business organization, submitted to the Commissioner on a form prescribed by the Commissioner the name of each producer of insurance authorized to transact business on behalf of the business organization.*

3. A natural person who is a resident of this State applying for a license must furnish a complete set of his fingerprints which the Commissioner may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Commissioner shall adopt regulations concerning the procedures for obtaining this information.

4. The Commissioner may require any document reasonably necessary to verify information contained in an application.

Sec. 3. NRS 683A.261 is hereby amended to read as follows:

683A.261 1. Unless the Commissioner refuses to issue the license under NRS 683A.451, he shall issue a license as a producer of insurance to a person who has satisfied the requirements of NRS 683A.241 and 683A.251. A producer of insurance may qualify for a license in one or more of the lines of authority permitted by statute or regulation, including:

(a) Life insurance on human lives, which includes benefits from endowments and annuities and may include additional benefits from death by accident and benefits for dismemberment by accident and for disability.

(b) Health insurance for sickness, bodily injury or accidental death, which may include benefits for disability.

(c) Property insurance for direct or consequential loss or damage to property of every kind.

(d) Casualty insurance against legal liability, including liability for death, injury or disability and damage to real or personal property.

(e) Surety indemnifying financial institutions or providing bonds for fidelity, performance of contracts or financial guaranty.

(f) Variable annuities and variable life insurance, including coverage reflecting the results of a separate investment account.

(g) Credit insurance, including life, disability, property, unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed protection of assets, and any other form of insurance offered in connection with an extension of credit that is limited to wholly or partially extinguishing the obligation which the Commissioner determines should be considered as limited-line credit insurance.

(h) Personal lines, consisting of automobile and motorcycle insurance and residential property insurance, including coverage for flood, of personal watercraft and of excess liability, written over one or more underlying policies of automobile or residential property insurance.

(i) Fixed annuities as a limited line.

(j) Travel and baggage as a limited line.

(k) Rental car agency as a limited line.

2. A license as a producer of insurance remains in effect unless revoked, suspended or otherwise terminated if a request for a renewal is submitted on or before the date for the renewal specified on the license, the fee for renewal and a fee established by the Commissioner of not more than \$15 for deposit in the Insurance Recovery Account are paid for each license and each ~~affiliation with~~ *authorization to transact business on behalf of* a business organization licensed pursuant to subsection 2 of NRS 683A.251, and any requirement for education or any other requirement to renew the license is satisfied by the date specified on the license for the renewal. A producer of insurance may submit a request for a renewal of his license within 30 days after the date specified on the license for the renewal if the producer of insurance otherwise complies with the provisions of this subsection and pays, in addition to any fee paid pursuant to this subsection, a penalty of 50 percent of the renewal fee. A license as a producer of insurance expires if the

Commissioner receives a request for a renewal of the license more than 30 days after the date specified on the license for the renewal. A fee paid pursuant to this subsection is nonrefundable.

3. A natural person who allows his license as a producer of insurance to expire may reapply for the same license within 12 months after the date specified on the license for a renewal without passing a written examination or completing a course of study required by paragraph (c) of subsection 1 of NRS 683A.251, but a penalty of twice the renewal fee is required for any request for a renewal of the license that is received after the date specified on the license for the renewal.

4. A licensed producer of insurance who is unable to renew his license because of military service, extended medical disability or other extenuating circumstance may request a waiver of the time limit and of any fine or sanction otherwise required or imposed because of the failure to renew.

5. A license must state the licensee's name, address, personal identification number, the date of issuance, the lines of authority and the date of expiration and must contain any other information the Commissioner considers necessary. A resident producer of insurance shall maintain a place of business in this State which is accessible to the public and where he principally conducts transactions under his license. The place of business may be in his residence. The license must be conspicuously displayed in an area of the place of business which is open to the public.

6. A licensee shall inform the Commissioner of each change of location from which he conducts business as a producer of insurance and each change of business or residence address, in writing or by other means acceptable to the Commissioner, within 30 days after the change. If a licensee changes the location from which he conducts business as a producer of insurance or his business or residence address without giving written notice and the Commissioner is unable to locate the licensee after diligent effort, he may revoke the license without a hearing. The mailing of a letter by certified mail, return receipt requested, addressed to the licensee at his last mailing address appearing on the records of the Division, and the return of the letter undelivered, constitutes a diligent effort by the Commissioner.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 686C.240 is hereby amended to read as follows:

686C.240 1. The Board of Directors of *the Association* shall determine the amount of each assessment in Class A and may, but need not, prorate it. If an assessment is prorated, the Board may provide that any surplus be credited against future assessments in Class B. An assessment which is not prorated must not exceed ~~[\$150]~~ \$300 for each member insurer for any ~~for one~~ 1 calendar year.

2. The Board may allocate any assessment in Class B among the accounts according to the premiums or reserves of the impaired or insolvent

insurer or any other standard which it considers fair and reasonable under the circumstances.

3. Assessments in Class B against member insurers for each account and subaccount must be in the proportion that the premiums received on business in this State by each assessed member insurer on policies or contracts covered by each account or subaccount for the 3 most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bears to premiums received on business in this State for those calendar years by all assessed member insurers.

4. Assessments for money to meet the requirements of the Association with respect to an impaired or insolvent insurer must not be authorized or called until necessary to carry out the purposes of this chapter. Classification of assessments under subsection 2 of NRS 686C.230 and computation of assessments under this section must be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The Association shall notify each member insurer of its anticipated prorated share of an assessment authorized but not yet called within 180 days after it is authorized.

Sec. 8. NRS 687B.350 is hereby amended to read as follows:

687B.350 1. Except as otherwise provided in subsection 2, an insurer shall not renew a policy on different terms, including different rates, unless the insurer notifies the insured in writing of the different terms or rates at least 30 days before the expiration of the policy. If the insurer fails to provide adequate and timely notice, the insurer shall renew the policy at the expiring terms and rates:

(a) For a period that is equal to the expiring term if the agreed term is 1 year or less; or

(b) For 1 year if the agreed term is more than 1 year.

2. The provisions of this section do not apply to *a change in the rate for a policy of industrial insurance* ~~[-]~~ *which is based on:*

(a) *A change to a prospective loss cost filed by the Advisory Organization pursuant to NRS 686B.177 that is applicable to the risk; or*

(b) *A correction based on the experience that is applicable to the risk in accordance with the Uniform Plan for Rating Experience filed with the Commissioner pursuant to NRS 686B.177.*

Sec. 9. NRS 689.150 is hereby amended to read as follows:

689.150 As used in NRS 689.150 to 689.375, inclusive, unless the context otherwise requires:

1. "Funeral service or services" means those services performed normally by funeral directors or funeral or mortuary parlors and includes their sales of supplies and equipment for burial. The term includes cremations and crematory services. The term does not include services performed by a cemetery or the sale by a cemetery of services, interests in land, markers, memorials, monuments or merchandise and equipment in relation to the cemetery or the sale of crypts or niches constructed or to be

constructed in a mausoleum or columbarium or otherwise on the property of a cemetery.

2. "Performer" means any person designated in a prepaid contract to furnish the funeral services, supplies and equipment covered by the contract on the demise of the beneficiary.

3. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~[, a person]~~ *or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or promises either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract to furnish funeral services and merchandise. The term does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization, not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, of embalming, interring or otherwise disposing of the remains of any person.*

Sec. 10. NRS 689.185 is hereby amended to read as follows:

689.185 1. *Except as otherwise provided in subsection 2:*

(a) Before the issuance of a certificate of authority, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value of not less than the amount of the bond required by the Commissioner.

~~{2-}~~ (b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~{3-}~~ (c) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. *The Commissioner may waive the requirements of subsection 1 if the seller agrees:*

(a) *To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and*

(b) *Not to collect any money from the purchaser of a prepaid contract.*

Sec. 11. NRS 689.315 is hereby amended to read as follows:

689.315 1. *Except as otherwise provided in subsection 2:*

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with and approved by the Commissioner.

~~{2.}~~ (b) The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has been deducted.

~~{3.}~~ (c) The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~{4.}~~ (d) Except as otherwise provided in NRS 689.150 to 689.375, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, the trustees shall maintain the trust fund intact and unimpaired and shall make no other payment or disbursement from the trust fund.

2. *The requirements of subsection 1 do not apply if:*

(a) *The prepaid contract is payable solely from the proceeds of a policy of life insurance; and*

(b) *The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.*

Sec. 12. NRS 689.475 is hereby amended to read as follows:

689.475 1. "Prepaid contract" means any contract under which, for a specified consideration paid in advance in a lump sum or by installments ~~[-a person]~~ *or payable solely from the proceeds of a policy of life insurance, the seller of the contract guarantees or promises, either before or upon the death of a beneficiary named in or otherwise ascertainable from the contract, to provide burial services and to furnish adaptable or suitable personal property, merchandise, supplies or facilities in connection with such services.*

2. "Prepaid contract" does not include a contract of insurance or any instrument in writing whereby any charitable, religious, benevolent or fraternal benefit society, corporation, association, institution or organization, not having for its object or purpose pecuniary profit, promises or agrees to embalm, inter or otherwise dispose of the remains of any person, or to procure or pay the expenses, or any part thereof, for embalming, interring or otherwise disposing of the remains of any person.

Sec. 13. NRS 689.495 is hereby amended to read as follows:

689.495 1. *Except as otherwise provided in subsection 2:*

(a) Before the issuance of a permit to a seller, the seller shall post with the Commissioner and thereafter maintain in force a bond in the principal sum of \$50,000 issued by an authorized corporate surety in favor of the State of Nevada, or a deposit of cash or negotiable securities or a combination of cash and negotiable securities. If a deposit is made in lieu of a bond, the deposit must at all times have a market value not less than the amount of the bond required by the Commissioner.

~~{2-}~~ (b) The bond or deposit must be held for the benefit of buyers of prepaid contracts, and other persons as their interests may appear, who may be damaged by misuse or diversion of money by the seller or his agents, or to satisfy any judgments against the seller for failure to perform a prepaid contract. The aggregate liability of the surety for all breaches of the conditions of the bond must not exceed the sum of the bond. The surety on the bond has the right to cancel the bond upon giving 30 days' notice to the Commissioner and thereafter is relieved of liability for any breach of condition occurring after the effective date of the cancellation.

~~{3-}~~ (c) The Commissioner shall release the bond or deposit after the seller has ceased doing business as such and the Commissioner is satisfied of the nonexistence of any obligation or liability of the seller for which the bond or deposit was held.

2. *The Commissioner may waive the requirements of subsection 1 if the seller agrees:*

(a) *To offer for sale only prepaid contracts that are payable solely from the proceeds of a policy of life insurance; and*

(b) *Not to collect any money from the purchaser of a prepaid contract.*

Sec. 14. NRS 689.560 is hereby amended to read as follows:

689.560 1. *Except as otherwise provided in subsection 2:*

(a) The seller shall establish and maintain a trust fund with an authorized trustee, for the benefit of the beneficiary of the prepaid contract, in accordance with the trust agreement filed with and approved by the Commissioner.

~~{2-}~~ (b) The seller shall maintain unimpaired and shall deposit in the trust fund, within 15 days after the end of the month in which payment was received, all installments received on prepaid contracts sold after the sales commission has been deducted.

~~{3-}~~ (c) The trustee shall, with respect to the money in the trust fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their money, considering the probable income as well as the probable safety of their capital. Within the limitations of such standards, and subject to any express provision or limitation contained in any particular trust instrument, a trustee may acquire and retain every kind of

investment, specifically including bonds, debentures and other corporate obligations and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account.

~~[4.—Except]~~

(d) *The trustee shall, except as otherwise provided in NRS 689.450 to 689.595, inclusive, or the trust agreement approved in writing by the Commissioner or as may be required by an order of a court of competent jurisdiction, ~~[the trustee shall]~~ maintain the trust fund intact and unimpaired and ~~[shall]~~ not make any payment or disbursement from the trust fund.*

2. *The requirements of subsection 1 do not apply if:*

(a) *The prepaid contract is payable solely from the proceeds of a policy of life insurance; and*

(b) *The seller of the prepaid contract does not collect any money from the purchaser of the prepaid contract.*

Sec. 15. NRS 689C.075 is hereby amended to read as follows:

689C.075 1. "Health benefit plan" means a policy ~~for certificate for hospital or medical expenses, a contract for dental, hospital or medical services, or a health care plan of a health maintenance organization available for use, offered or sold to a small employer.~~, contract, certificate or agreement to provide for, deliver payment for, arrange for the payment of, pay for or reimburse any of the costs of health care services. Except as otherwise provided in this section, the term includes short-term and catastrophic health insurance policies ~~[.]~~ and a policy that pays on a cost-incurred basis.

2. The term does not include:

(a) Coverage that is only for accident or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Coverage for medical payments under a policy of automobile insurance;

(f) Credit insurance;

(g) Coverage for on-site medical clinics;

(h) Coverage under a short-term health insurance policy;

(i) Coverage under a blanket student accident and health insurance policy; and

(j) Other similar insurance coverage specified in federal regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, under which benefits for medical care are secondary or incidental to other insurance benefits.

3. If the benefits are provided under a separate policy, certificate or contract of insurance or are otherwise not an integral part of a health benefit plan, the term does not include the following benefits:

- (a) Limited-scope dental or vision benefits;
- (b) Benefits for long-term care, nursing home care, home health care or community-based care, or any combination thereof; and
- (c) Such other similar benefits as are specified in any federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

4. If the benefits are provided under a separate policy, certificate or contract of insurance, there is no coordination between the provision of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor, and the benefits are paid for a claim without regard to whether benefits are provided for such a claim under any group health plan maintained by the same plan sponsor, the term does not include:

- (a) Coverage that is only for a specified disease or illness; and
- (b) Hospital indemnity or other fixed indemnity insurance.

5. If offered as a separate policy, certificate or contract of insurance, the term does not include:

- (a) Medicare supplemental health insurance as defined in section 1882(g)(1) of the Social Security Act, 42 U.S.C. § 1395ss, as that section existed on July 16, 1997;
- (b) Coverage supplemental to the coverage provided pursuant to the Civilian Health and Medical Program of Uniformed Services, CHAMPUS, 10 U.S.C. §§ 1071 et seq.; and
- (c) Similar supplemental coverage provided under a group health plan.

Sec. 15.5. NRS 689C.170 is hereby amended to read as follows:

689C.170 1. A carrier serving small employers may vary the application of requirements for minimum participation of eligible employees and minimum employer's contributions only by the size of the small employer's group ~~[-]~~ *or the product offered*.

2. In applying requirements for minimum participation with respect to a small employer, a carrier shall not consider employees or dependents who have creditable coverage when determining whether the applicable percentage of participation is met, but may consider employees or dependents who have coverage under another health benefit plan that is sponsored by the employer.

3. A carrier shall not deny an application for coverage solely because the applicant works in a certain industry.

4. After a small employer has been accepted for coverage, a carrier shall not increase any requirement for minimum employee participation or modify any requirement for minimum employer contribution applicable to the small employer.

Sec. 16. NRS 690B.260 is hereby amended to read as follows:

690B.260 1. Each insurer which issues a policy of insurance covering the liability of a physician licensed under chapter 630 of NRS or an osteopathic physician licensed under chapter 633 of NRS for a breach of his

professional duty toward a patient shall, within 45 days after ~~{a claim is closed under the policy,}~~ *the end of a calendar quarter*, submit a report to the Commissioner concerning ~~{the claim,}~~ *each claim that was closed during that calendar quarter under such a policy of insurance issued by the insurer and any change during that calendar quarter to any claim under such a policy of insurance issued by the insurer that was closed during a previous calendar quarter*. The report must include, without limitation:

- (a) The name and address of the claimant and the insured under ~~{the}~~ *each* policy;
- (b) A statement setting forth the circumstances of ~~{the}~~ *that* case;
- (c) Information indicating whether any payment was made on ~~{the}~~ *a* claim and the amount of the payment, if any; and
- (d) The information specified in subsection 2 of NRS 679B.144 ~~{,}~~ *for each claim*.

2. An insurer who fails to comply with the provisions of subsection 1 is subject to the imposition of an administrative fine pursuant to NRS 679B.460.

3. The Commissioner shall, within 30 days after receiving a report from an insurer pursuant to this section, submit a report to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, setting forth the information provided to the Commissioner by the insurer pursuant to this section.

Sec. 17. NRS 690C.080 is hereby amended to read as follows:

690C.080 1. "Service contract" means a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair, replace or perform maintenance on, or indemnify or reimburse the holder for the costs of repairing, replacing or performing maintenance on, goods that are described in the service contract and which have an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including, without limitation:

~~{1.}~~ (a) A contract that includes a provision for incidental payment of indemnity under limited circumstances, including, without limitation, towing, rental and emergency road service; and

~~{2.}~~ (b) A contract that provides for the repair, replacement or maintenance of goods for damages that result from power surges or accidental damage from handling.

2. *The term does not include a contract pursuant to which a provider, other than the manufacturer, builder, seller or lessor of a manufactured home, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair or replace, or indemnify or reimburse the holder for the costs of repairing or replacing, any component of the physical structure of the manufactured home, including, without limitation, the walls, roof supports, structural floor base or foundation.*

Sec. 18. NRS 692A.270 is hereby amended to read as follows:

692A.270 The provisions of NRS 683A.321, 683A.331, 683A.341, 683A.400, 683A.451 to 683A.490, inclusive, and 683A.520 apply to title insurers, title agents and escrow officers.

Sec. 19. NRS 694C.250 is hereby amended to read as follows:

694C.250 1. A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other capital *or surplus* required to be maintained pursuant to subsection 3, unimpaired paid-in capital *and unencumbered surplus* of:

- (a) For a pure captive insurer, not less than ~~[\$100,000;]~~ \$200,000;
- (b) For an association captive insurer, ~~[incorporated as a stock insurer,]~~ not less than ~~[\$200,000;]~~ \$500,000;
- (c) For an agency captive insurer, not less than ~~[\$300,000;]~~ \$600,000;
- (d) For a rental captive insurer, not less than ~~[\$400,000;]~~ \$800,000; and
- (e) For a sponsored captive insurer, not less than ~~[\$200,000;]~~ \$500,000.

2. Except as otherwise provided by the Commissioner pursuant to subsection 3, the capital *and surplus* required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to capital *or surplus* based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which capital ~~[;]~~ *and surplus*, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of capital *and surplus* required pursuant to this section must:

- (a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and
- (b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

Sec. 20. NRS 694C.270 is hereby amended to read as follows:

694C.270 1. The Commissioner may suspend or revoke the license of a captive insurer if, after an examination and hearing, the Commissioner determines that:

- (a) The captive insurer:
 - (1) Is insolvent or has impaired its required capital or surplus;
 - (2) Has failed to meet a requirement of NRS 694C.250, ~~[694C.260;]~~ 694C.320 or 694C.330;
 - (3) Has refused or failed to submit an annual report, as required by NRS 694C.400, or any other report or statement required by law or by order of the Commissioner;
 - (4) Has failed to comply with the provisions of its charter or bylaws;
 - (5) Has failed to submit to an examination required pursuant to NRS 694C.410;

(6) Has refused or failed to pay the cost of an examination required pursuant to NRS 694C.410;

(7) Has used any method in transacting insurance pursuant to this chapter which is detrimental to the operation of the captive insurer or would make its condition unsound with respect to its policyholders or the general public; or

(8) Has failed otherwise to comply with the laws of this State; and

(b) The suspension or revocation of the license of the captive insurer is in the best interest of its policyholders or the general public.

2. The provisions of NRS 679B.310 to 679B.370, inclusive, apply to hearings conducted pursuant to this section.

Sec. 21. NRS 694C.340 is hereby amended to read as follows:

694C.340 1. Except as otherwise provided in this section and NRS 694C.382, an association captive insurer, an agency captive insurer, a rental captive insurer or a sponsored captive insurer shall comply with the requirements relating to investments set forth in chapter 682A of NRS. Upon the request of the association captive insurer, agency captive insurer, rental captive insurer or sponsored captive insurer, the Commissioner may approve the use of reliable, alternative methods of valuation and rating.

2. A pure captive insurer is not subject to any restrictions on allowable investments, except that the Commissioner may prohibit or limit any investment that threatens the solvency or liquidity of the pure captive insurer.

3. A pure captive insurer may make a loan to its parent or affiliated company if the loan:

(a) Is first approved in writing by the Commissioner;

(b) Is evidenced by a note that is in a form that is approved by the Commissioner; and

(c) Does not include any money that has been set aside as capital or surplus as required by subsection 1 of NRS 694C.250 . ~~[or subsection 1 of NRS 694C.260.]~~

Sec. 22. NRS 694C.384 is hereby amended to read as follows:

694C.384 1. As security for the payment of liabilities attributable to the branch operations of a branch captive insurer, the Commissioner shall require that a trust fund, funded by an irrevocable letter of credit or other acceptable asset, be established and maintained in the United States for the benefit of United States policyholders and ceding United States insurers under insurance policies or reinsurance contracts issued or assumed by the branch captive insurer through its branch operations.

2. The amount of the security must be not less than the total amount required by NRS 694C.250 , ~~[and 694C.260.]~~ and any reserves on such insurance policies or reinsurance contracts, including reserves for losses, allocated loss adjustment expenses, incurred but not reported losses and unearned premiums with regard to business written through the branch operations. The Commissioner may authorize a branch captive insurer that is required to post security for loss reserves on branch business by its reinsurer

to reduce the funds in the trust account required by this section by that same amount as long as the security remains posted with the reinsurer.

3. If the form of the security is a letter of credit, the letter of credit must be established, issued or confirmed by a bank chartered in this State or a bank that is a member of the Federal Reserve System.

Sec. 23. NRS 694C.400 is hereby amended to read as follows:

694C.400 1. On or before March 1 of each year, a captive insurer shall submit to the Commissioner a report of its financial condition, as prepared by a certified public accountant. A captive insurer shall use generally accepted accounting principles and include any useful or necessary modifications or adaptations thereof that have been approved or accepted by the Commissioner for the type of insurance and kinds of insurers to be reported upon, and as supplemented by additional information required by the Commissioner. Except as otherwise provided in this section, each association captive insurer, agency captive insurer, ~~or~~ rental captive insurer *or sponsored captive insurer* shall file its report in the form required by NRS 680A.265. The Commissioner shall adopt regulations designating the form in which pure captive insurers must report.

2. A pure captive insurer may apply, in writing, for authorization to file its annual report based on a fiscal year that is consistent with the fiscal year of the parent company of the pure captive insurer. If an alternative date is granted:

(a) The annual report is due not later than 60 days after the end of each such fiscal year; and

(b) The pure captive insurer shall file on or before March 1 of each year such forms as required by the Commissioner by regulation to provide sufficient detail to support its premium tax return filed pursuant to NRS 694C.450.

Sec. 24. NRS 695D.270 is hereby amended to read as follows:

695D.270 1. The Commissioner shall, ~~once~~:

~~(a) Every 6 months for the first~~ *not less frequently than once every 3 years*, ~~after an organization for dental care receives its certificate of authority; and~~

~~(b) Each year thereafter,~~
 →} conduct an examination of ~~the~~ *an organization for dental care* pursuant to NRS 679B.250 to 679B.300, inclusive.

2. The Commissioner may examine any organization which holds a certificate of authority from this State or another state at any other time he deems necessary. For those organizations transacting business in this State which are not organized in this State, the Commissioner may accept a full report of the last examination of the organization certified by the state officer who supervises those organizations in the other state, if that examination is equivalent to an examination conducted by the Commissioner.

3. The Commissioner shall, in like manner, examine all organizations applying for a certificate of authority.

Sec. 25. NRS 695F.310 is hereby amended to read as follows:

695F.310 1. The Commissioner may examine the affairs of any prepaid limited health service organization as often as is reasonably necessary to protect the interests of the residents of this State, but not less frequently than once every ~~[2]~~ 3 years.

2. A prepaid limited health service organization shall make its books and records available for examination and cooperate with the Commissioner to facilitate the examination.

3. In lieu of such an examination, the Commissioner may accept the report of an examination conducted by the commissioner of insurance of another state.

4. The reasonable expenses of an examination conducted pursuant to this section must be charged to the organization being examined and remitted to the Commissioner.

Sec. 26. NRS 696A.185 is hereby amended to read as follows:

696A.185 1. Every motor club shall file with the Commissioner on or before March 1 of each year a report which summarizes its activities for the preceding calendar year. The report must be verified by at least two officers of the motor club.

2. The report must be on a form prescribed by the Commissioner and must include:

(a) A financial statement for the motor club, including its balance sheet and receipts and disbursements for the preceding calendar year;

(b) Any material changes in the information given in the previous report;

(c) The number of members enrolled in the year;

(d) The costs of all services provided for that year; and

(e) Any other information relating to the motor club requested by the Commissioner.

3. The motor club must pay to the Commissioner an annual fee of \$500.

4. Every motor club shall file with the Commissioner on or before June 1 of each year a financial statement of the motor club certified by an independent public accountant.

5. Any motor club failing, without just cause beyond its reasonable control, to file timely the report or financial statement *or to pay timely the annual fee* required by this section shall pay an administrative penalty of \$100 per day until the report or statement is filed, except that the total penalty must not exceed \$3,000. The Attorney General shall recover the penalty in the name of the State of Nevada.

6. A motor club is not exempt from the provisions of NRS 679B.700.

Sec. 27. NRS 696B.330 is hereby amended to read as follows:

696B.330 1. All claims against an insurer against which delinquency proceedings have ~~been begun shall~~ *commenced must be filed in the manner and form established by the receiver and set forth in reasonable detail the amount of the claim, or the basis upon which ~~such~~ that amount can be ascertained, the facts upon which the claim is based, and the priorities*

asserted, if any. All such claims ~~{shall}~~ *must* be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and ~~{shall}~~ be supported by such documents as may be material thereto.

2. All claims filed in this State ~~{shall}~~ *must* be filed with the receiver, whether domiciliary or ancillary, in this State, on or before the last date for filing as specified in this chapter ~~{-}~~ *or as directed by the court.*

3. ~~{Within 10 days of the receipt of any claim, or within such further period as the court may fix for good cause shown, the receiver shall report the claim to the court, specifying in such report his recommendation with respect to the action to be taken thereon. Upon receipt of such report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court shall specify, shall give such notice as the court determines to such persons as appear to the court to be interested therein. All such notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver with reference thereto.~~

4. ~~At the hearing, all persons interested shall be entitled to appear, and the court shall enter an order allowing, allowing in part, or disallowing the claim. Any such order is an appealable order.~~ *Except as otherwise provided in subsection 4, after the last date for filing a claim against an insurer as specified in this chapter, the receiver shall:*

(a) *Determine whether to approve or deny, in whole or in part, each claim against the insurer filed with the receiver pursuant to subsection 2; and*

(b) *If the receiver approves a claim, in whole or in part, determine the class of the claim as provided in NRS 696B.420.*

4. *The receiver is not required to process any claims in a class until it appears that assets will be available for distribution to that class. If there are insufficient assets to process claims for a class, the receiver shall notify the court and may make a recommendation to the court for the processing of any such claims.*

5. *The receiver shall mail, by first-class mail, postage prepaid, to each claimant that filed a claim with the receiver pursuant to subsection 2, written notice of the determination regarding the claim.*

6. *The receiver shall submit to the court a report on the determination of the receiver on each claim approved in whole or in part.*

7. *Not more than 60 days after the mailing of the written notice pursuant to subsection 5 or the submission of the report pursuant to subsection 6, whichever occurs later, a person may file with the receiver an objection to the determination of the receiver on a claim.*

8. *If an objection is filed pursuant to subsection 7, the receiver shall submit to the court a report on the determination of the receiver on each claim to which an objection has been filed. The court shall fix a time for a hearing on such claims and shall direct the receiver to give notice of the hearing. The notice provided by the receiver must:*

(a) *Be sent by first-class mail, postage prepaid, not more than 30 days and not less than 10 days before the hearing, on any claim to which an objection has been filed; and*

(b) *Specify the time and place of the hearing.*

9. *A hearing may be conducted by the court or by a master or referee appointed by the court. If a hearing is conducted by a master or referee, the master or referee shall submit findings of fact and his recommendations to the court. The court shall enter an order approving or denying, in whole or in part, a claim filed against an insurer. Any such order is an appealable order.*

Sec. 28. NRS 697.360 is hereby amended to read as follows:

697.360 Licensed bail agents, bail solicitors and bail enforcement agents, and general agents are also subject to the following provisions of this Code, to the extent reasonably applicable:

1. Chapter 679A of NRS.

2. Chapter 679B of NRS.

3. NRS 683A.261.

4. NRS 683A.301.

5. NRS 683A.311.

6. *NRS 683A.331.*

7. NRS 683A.341.

~~{7.}~~ 8. NRS 683A.361.

~~{8.}~~ 9. NRS 683A.400.

~~{9.}~~ 10. NRS 683A.451.

~~{10.}~~ 11. NRS 683A.461.

~~{11.}~~ 12. NRS 683A.480.

~~{12.}~~ 13. NRS 683A.500.

~~{13.}~~ 14. NRS 683A.520.

~~{14.}~~ 15. NRS 686A.010 to 686A.310, inclusive.

Sec. 28.3. NRS 616A.050 is hereby amended to read as follows:

616A.050 "Association of self-insured private employers" means a nonprofit, unincorporated association composed of five or more private employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive ~~{ }~~, and section 29.5 of this act.

Sec. 28.7. NRS 616A.055 is hereby amended to read as follows:

616A.055 "Association of self-insured public employers" means a nonprofit, unincorporated association composed of five or more public employers that has been issued a certificate by the Commissioner and is subject to the provisions of NRS 616B.350 to 616B.446, inclusive ~~{ }~~, and section 29.5 of this act.

Sec. 29. NRS 616A.330 is hereby amended to read as follows:

616A.330 "Tangible net worth" means *the value of* all ~~{of}~~ the assets, minus the value of all the liabilities, of an association of self-insured private employers or of a member of such an association except:

- ~~1. [Accounts receivable, if they are factored or collateralized.]~~
- ~~2. [An inventory, except one held for resale and not collateralized.]~~
- ~~3. [A prepaid expense.]~~
- ~~4. [An unqualified investment.]~~
- ~~5. [An allocated bond fund.]~~
- ~~6. [An investment in an affiliate.]~~
- ~~7. [A restricted fund.]~~
- ~~8. [A reserve.]~~
- ~~9. [A security cost, such as a capitalized bond cost.]~~
- ~~10. [A cash equivalent, unless it is described in the footnotes for the balance sheet by item, and for investments, by duration and nature. A cash flow statement is not a sufficient description.]~~
- ~~11. [A contingency or commitment, including any estimated cost.]~~
- ~~12. [Any book adjustment caused by a change in an accounting policy or a restatement.]~~
- ~~13.]~~ Goodwill or excess cost over the fair market value of assets.
- ~~[14.]~~ 2. Any other items listed in the assets that are deemed unacceptable by the Commissioner because they cannot be justified or because they do not directly support the ability of the association or the member to pay a claim.

Sec. 29.5. Chapter 616B of NRS is hereby amended by adding thereto a new section to read as follows:

If a member of an association of self-insured public or private employers requests, in writing, information required for his certificate of insurance, the association shall, within 30 days after receiving the request, provide to the member information regarding claims paid and reserves for claims incurred that are maintained on behalf of the member.

Sec. 29.7. NRS 616B.300 is hereby amended to read as follows:

616B.300 1. An employer may qualify as a self-insured employer by establishing to the satisfaction of the Commissioner that the employer has sufficient administrative and financial resources to make certain the prompt payment of all compensation under chapters 616A to 616D, inclusive, or chapter 617 of NRS. *For the purposes of this subsection, an employer has sufficient financial resources if the employer has:*

(a) A tangible net worth of not less than \$2,500,000, as evidenced by a statement of tangible net worth provided to the Division of Insurance of the Department of Business and Industry by an independent certified public accountant; or

(b) Net cash flows from operating activities plus net cash flows from financing activities of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less.

2. A self-insured employer must, in addition to establishing financial ability to pay, deposit with the Commissioner a bond executed by the employer as principal, and by a corporation qualified under the laws of this State as surety, payable to the State of Nevada, and conditioned upon the payment of compensation for injuries and occupational diseases to

employees. The bond must be in an amount reasonably sufficient to ensure payment of compensation, but in no event may it be less than 105 percent of the employer's expected annual incurred cost of claims, or less than \$100,000. In arriving at an amount for the expected annual cost of claims, due consideration must be given to the past and prospective experience of the employer with losses and expenses within this State, to the hazard of catastrophic loss, to other contingencies, and to trends within the State. In arriving at the amount of the deposit required, the Commissioner may consider the nature of the employer's business, the financial ability of the employer to pay compensation and his probable continuity of operation.

3. In lieu of a bond the employer may deposit with the Commissioner a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Commissioner.

4. The required deposit may be increased or decreased by the Commissioner in accordance with chapter 681B of NRS and his regulations for loss reserves in casualty insurance. If the Commissioner requires an employer to increase his deposit, the Commissioner may specify the form of the additional security. The employer shall comply with such a requirement within 60 days after receiving notice from the Commissioner.

5. The Commissioner shall require the self-insured employer to submit evidence of excess insurance to provide protection against a catastrophic loss. The excess insurance must be written by an insurer authorized to do business in this State. The Commissioner shall consider the excess insurance coverage as a basis for a reduction in the deposit required of an employer.

6. The Account for Self-Insured Employers is hereby created in the State Agency Fund for Bonds. All money received by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the Account for Self-Insured Employers. All claims against this Account must be paid as other claims against the State are paid.

Sec. 29.8. NRS 616B.353 is hereby amended to read as follows:

616B.353 1. An association of self-insured public or private employers shall:

(a) Execute an indemnity agreement jointly and severally binding the association and each member of the association to secure the payment of all compensation due pursuant to chapters 616A to 617, inclusive, of NRS. The indemnity agreement must be in a form prescribed by the Commissioner. An association may add provisions to the indemnity agreement if they are first approved by the Commissioner.

(b) Except as otherwise provided in this subsection, maintain a policy of specific and aggregate excess insurance in a form and amount required by the Commissioner. The excess insurance must be written by an insurer approved

by the Commissioner. To determine the amount of excess insurance required, the Commissioner shall consider:

- (1) The number of members in the association;
- (2) If the association is an association of self-insured public employers, the types of governmental services provided by the members of the association;
- (3) If the association is an association of self-insured private employers, the classifications of employment of the members of the association;
- (4) The number of years the association has been in existence; and
- (5) Such other information as the Commissioner deems necessary.

➡ Nothing in this paragraph prohibits an association from purchasing secondary excess insurance in addition to the excess insurance required by this paragraph.

(c) Collect an annual assessment from each member of the association in an aggregate amount of at least \$250,000 or in an aggregate amount which the Commissioner determines is satisfactory based on an annual review conducted by him of the actuarial solvency of the association.

(d) Except as otherwise provided in paragraph (e), deposit as security with the Commissioner a bond executed by the association as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the payment of compensation for injuries and occupational diseases to their employees. The bond must be in an amount determined by the Commissioner to be reasonably sufficient to ensure payment of such compensation, but in no event may it be less than \$100,000.

(e) In lieu of a bond, deposit with the Commissioner a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Commissioner.

2. Except as otherwise provided in subsection 3, in addition to complying with the requirements of subsection 1, an association of self-insured private employers shall maintain ~~for~~ either:

(a) A combined tangible net worth of all members in the association of at least \$2,500,000 ~~for~~, as evidenced by a statement of tangible net worth provided to the Division of Insurance of the Department of Business and Industry by an independent certified public accountant; or

(b) Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less.

3. In lieu of complying with the requirements of subsection 2, the association's administrator shall ensure that a solvency bond, in a form prescribed by the Commissioner and in an aggregate amount of at least

\$2,500,000, is deposited with the Commissioner by the association or members of the association on behalf of the association.

4. The association's administrator shall deposit with the Commissioner a bond executed by the association's administrator as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the faithful performance of his duties. The bond must be in an amount determined by the Commissioner.

5. Any third-party administrator providing claims services for the association shall deposit with the Commissioner a bond executed by the third-party administrator as principal, and by a licensed surety, payable to the State of Nevada, and conditioned upon the faithful performance of its duties. The bond must be in an amount determined by the Commissioner.

6. The Commissioner may increase or decrease the amount of any bond or money required to be deposited by this section in accordance with chapter 681B of NRS and his regulations for loss reserves in casualty insurance. If the Commissioner requires an association, association's administrator or third-party administrator to increase its deposit, the Commissioner may specify the form of the additional security. The association, association's administrator or third-party administrator shall comply with such a requirement within 60 days after receiving notice from the Commissioner.

7. The Account for Associations of Self-Insured Public and Private Employers is hereby created in the State Agency Fund for Bonds. All money received by the Commissioner pursuant to this section must be deposited with the State Treasurer to the credit of the Account. All claims against this Account must be paid as other claims against the State are paid.

Sec. 30. NRS 616B.386 is hereby amended to read as follows:

616B.386 1. If an employer wishes to become a member of an association of self-insured public or private employers, the employer must:

(a) Submit an application for membership to the board of trustees or third-party administrator of the association; and

(b) Enter into an indemnity agreement as required by NRS 616B.353.

2. The membership of the applicant becomes effective when each member of the association approves the application or on a later date specified by the association. The application for membership and the action taken on the application must be maintained as permanent records of the board of trustees.

3. Each member who is a member of an association during the 12 months immediately following the formation of the association must:

(a) Have a tangible net worth of at least \$500,000; or

(b) Have had a reported payroll for the previous 12 months which would have resulted in a manual premium of at least \$15,000, calculated in accordance with a manual prepared pursuant to subsection 4 of NRS 686B.1765.

4. An employer who seeks to become a member of the association after the 12 months immediately following the formation of the association must

meet the requirement set forth in paragraph (a) or (b) of subsection 3 unless the Commissioner adjusts the requirement for membership in the association after conducting an annual review of the actuarial solvency of the association pursuant to subsection 1 of NRS 616B.353.

5. An association of self-insured private employers may apply to the Commissioner for authority to determine the amount of tangible net worth and manual premium that an employer must have to become a member of the association. The Commissioner shall approve the application if the association:

(a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

(b) Has ~~for~~ either:

(1) A combined tangible net worth of all members in the association of at least \$5,000,000; or

(2) Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less;

(c) Has at least 15 members; and

(d) Has not been required to meet informally with the Commissioner pursuant to subsection 1 of NRS 616B.431 during the 18-month period immediately preceding the date on which the association filed the application with the Commissioner or, if the association has been required to attend such a meeting during that period, has not had its certificate withdrawn before the date on which the association filed the application.

6. An association of self-insured private employers may apply to the Commissioner for authority to determine the documentation demonstrating solvency that an employer must provide to become a member of the association. The Commissioner shall approve the application if the association:

(a) Has been certified to act as an association for at least the 3 consecutive years immediately preceding the date on which the association filed the application with the Commissioner;

(b) Has ~~for~~ either:

(1) A combined tangible net worth of all members in the association of at least \$5,000,000; or

(2) Combined net cash flows from operating activities plus net cash flows from financing activities of all members in the association of five times the average of claims paid for each of the last 3 years or \$7,500,000, whichever is less; and

(c) Has at least 15 members.

7. The Commissioner may withdraw his approval of an application submitted pursuant to subsection 5 or 6 if he determines the association has

ceased to comply with any of the requirements set forth in subsection 5 or 6, as applicable.

8. A member of an association may terminate his membership at any time. To terminate his membership, a member must submit to the association's administrator a notice of intent to withdraw from the association at least 120 days before the effective date of withdrawal. The notice of intent to withdraw must include a statement indicating that the member has:

- (a) Been certified as a self-insured employer pursuant to NRS 616B.312;
- (b) Become a member of another association of self-insured public or private employers; or
- (c) Become insured by a private carrier.

9. The members of an association may cancel the membership of any member of the association in accordance with the bylaws of the association.

10. The association shall:

(a) Within 30 days after the addition of an employer to the membership of the association, notify the Commissioner of the addition and:

(1) If the association has not received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner all information and assurances for the new member that were required from each of the original members of the association upon its organization; or

(2) If the association has received authority from the Commissioner pursuant to subsection 5 or 6, as applicable, provide to the Commissioner evidence that is satisfactory to the Commissioner that the new member is a member or associate member of the bona fide trade association as required pursuant to paragraph (a) of subsection 2 of NRS 616B.350, a copy of the indemnity agreement that jointly and severally binds the new member, the other members of the association and the association that is required to be executed pursuant to paragraph (a) of subsection 1 of NRS 616B.353 and any other information the Commissioner may reasonably require to determine whether the amount of security deposited with the Commissioner pursuant to paragraph (d) or (e) of subsection 1 of NRS 616B.353 is sufficient, but such information must not exceed the information required to be provided to the Commissioner pursuant to subparagraph (1);

(b) Notify the Commissioner and the Administrator of the termination or cancellation of the membership of any member of the association within 10 days after the termination or cancellation; and

(c) At the expense of the member whose membership is terminated or cancelled, maintain coverage for that member for ~~30~~ 60 days after notice is given pursuant to paragraph (b), unless the association first receives notice from the Administrator that the member has:

- (1) Been certified as a self-insured employer pursuant to NRS 616B.312;
- (2) Become a member of another association of self-insured public or private employers; or
- (3) Become insured by a private carrier.

11. If a member of an association changes his name or form of organization, the member remains liable for any obligations incurred or any responsibilities imposed pursuant to chapters 616A to 617, inclusive, of NRS under his former name or form of organization.

12. An association is liable for the payment of any compensation required to be paid by a member of the association pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during his period of membership. The insolvency or bankruptcy of a member does not relieve the association of liability for the payment of the compensation.

Sec. 30.3. NRS 616B.425 is hereby amended to read as follows:

616B.425 1. The Commissioner may issue an order requiring an association of self-insured public or private employers or a member of the association to cease and desist from engaging in any act or practice found to be in violation of any provision of NRS 616B.350 to 616B.446, inclusive, *and section 29.5 of this act*, or any regulation adopted pursuant thereto.

2. If the Commissioner determines that an association or a member of the association has violated an order to cease and desist, the Commissioner may impose an administrative fine of not more than \$10,000 for each violation of the order, not to exceed an aggregate amount of \$100,000, or withdraw the certificate of the association, or both.

Sec. 30.5. NRS 616B.428 is hereby amended to read as follows:

616B.428 1. The Commissioner may impose an administrative fine for each violation of any provision of NRS 616B.350 to 616B.446, inclusive, *and section 29.5 of this act*, or any regulation adopted pursuant thereto. Except as otherwise provided in those sections, the amount of the fine may not exceed \$1,000 for each violation or an aggregate amount of \$10,000.

2. The Commissioner may withdraw the certificate of an association of self-insured public or private employers if:

- (a) The association's certificate was obtained by fraud;
- (b) The application for certification contained a material misrepresentation;
- (c) The association is found to be insolvent;
- (d) The association fails to have five or more members;
- (e) The association fails to pay the costs of any examination or any penalty, fee or assessment required by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS;
- (f) The association fails to comply with any of the provisions of this chapter or chapter 616A, 616C, 616D or 617 of NRS, or any regulation adopted pursuant thereto;
- (g) The association fails to comply with any order of the Commissioner within the time prescribed by the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS or in the order of the Commissioner; or
- (h) The association or its third-party administrator misappropriates, converts, illegally withholds or refuses to pay any money to which a person is entitled and that was entrusted to the association in its fiduciary capacity.

3. If the Commissioner withdraws the certification of an association of self-insured public or private employers, each employer who is a member of the association remains liable for his obligations incurred before and after the order of withdrawal.

4. Any employer who is a member of an association whose certification is withdrawn shall, on the effective date of the withdrawal, qualify as an employer pursuant to NRS 616B.650.

Sec. 30.7. NRS 616B.446 is hereby amended to read as follows:

616B.446 The Commissioner may adopt such regulations as are necessary to carry out the provisions of NRS 616B.350 to 616B.446, inclusive ~~[-], and section 29.5 of this act.~~

Sec. 31. NRS 232.825 is hereby amended to read as follows:

232.825 The Commissioner:

1. May appoint ~~two~~ *three* deputies. The deputies are in the unclassified service of the State. Except as otherwise provided in NRS 284.143, each deputy shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.

2. Is responsible for the administration of the provisions of title 57 of NRS, and all other provisions of law relating to the functions of the Division.

3. May employ such staff as is necessary for the performance of his duties.

4. Has such other powers and duties as are provided by law.

Sec. 32. NRS 689A.735 and 694C.260 are hereby repealed.

Sec. 33. 1. This section and section 1 of this act become effective on July 1, 2007.

2. Sections 1.03 to 32, inclusive, of this act become effective on October 1, 2007.

TEXT OF REPEALED SECTIONS

689A.735 Report to Commissioner by trustee of medical savings account. On or before July 1 of each year, a trustee of a medical savings account established and maintained in accordance with 26 U.S.C. § 220 shall report to the Commissioner the number of medical savings accounts administered by the trustee during the previous calendar year.

694C.260 Surplus required: Amount; form; Commissioner authorized to prescribe additional requirements; letter of credit.

1. A captive insurer must not be issued a license, and shall not hold a license, unless the captive insurer has and maintains, in addition to any other surplus required to be maintained pursuant to subsection 3, an unencumbered surplus of:

- (a) For a pure captive insurer, not less than \$100,000;
- (b) For an association captive insurer incorporated as a stock insurer, not less than \$300,000;
- (c) For an agency captive insurer, not less than \$300,000;
- (d) For a rental captive insurer, not less than \$400,000;

(e) For an association captive insurer incorporated as a mutual insurer or reciprocal insurer, not less than \$500,000; and

(f) For a sponsored captive insurer, not less than \$300,000.

2. Except as otherwise provided in subsection 3, the surplus required to be maintained pursuant to this section must be in the form of cash or an irrevocable letter of credit.

3. The Commissioner may prescribe additional requirements relating to surplus based on the type, volume and nature of the insurance business that is transacted by the captive insurer and requirements regarding which surplus, if any, may be in the form of an irrevocable letter of credit.

4. A letter of credit used by a captive insurer as evidence of required surplus pursuant to this section must:

(a) Be issued by a bank chartered by this State or a bank that is a member of the United States Federal Reserve System and has been approved by the Commissioner; and

(b) Include a provision pursuant to which the letter of credit is automatically renewable each year, unless the issuer gives written notice to the Commissioner and the captive insurer at least 90 days before the expiration date.

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 202.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1039.

"SUMMARY—Makes an appropriation to the State Gaming Control Board for implementation of security measures and replacement of equipment. (BDR S-1220)"

"AN ACT making an appropriation to the State Gaming Control Board for implementation of new information system security measures and replacement of equipment; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the State Gaming Control Board the sum of ~~[\$748,622]~~ \$943,904 for the implementation of new information system security measures and the purchase of replacement equipment for electronic eavesdropping countermeasures, computer hardware and software and radio equipment.

Sec. 2. Any remaining balance of the appropriation made by section 1 of this act must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from

the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.

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

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 273.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1040.

"SUMMARY—Makes an appropriation to the Department of Health and Human Services for computer software and hardware and other equipment. (BDR S-1214)"

"AN ACT making an appropriation to the Department of Health and Human Services for computer software and hardware and other equipment; and providing other matters properly relating thereto."

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

Section 1. There is hereby appropriated from the State General Fund to the Department of Health and Human Services, Aging Older Americans Act, the sum of ~~[\$63,447]~~ \$52,748 to partially fund the replacement of computer hardware and software and to partially fund the purchase of air-conditioning for server rooms in Reno and Carson City.

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

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

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Senate Bill No. 67.

Bill read third time.

Roll call on Senate Bill No. 67:

YEAS—19.

NAYS—Carlton, Titus—2.

Senate Bill No. 67 having received a two-thirds majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 321.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1036.

"SUMMARY—Provides certain economic incentives for certain motion picture companies. (BDR 18-1182)"

"AN ACT relating to economic development; providing that certain fees relating to the operation of motor vehicles do not apply to certain motion picture companies; providing an abatement from certain sales and use taxes for certain motion picture companies; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a motion picture company to register with the Division of Motion Pictures of the Commission on Economic Development before engaging in the production of a motion picture in this State and exempts entities that produce motion pictures from the requirement to obtain a state business license and various requirements applicable to foreign corporations, foreign limited-liability companies and foreign limited partnerships. (NRS 80.015, 86.5483, 88.602, 231.128, 360.765) Sections 2, 3 and 5-9 of this bill revise the description of those entities to which these existing laws apply.

Existing law requires a person who uses certain special fuels for the propulsion of motor vehicles in this State to obtain a license or temporary permit, and provides for the collection of fees for that purpose. (NRS 366.220, 366.223) Sections 4, 10 and 11 of this bill exempt certain registered motion picture companies who agree to employ Nevada residents from the payment of those fees.

Existing law creates the Local School Support Tax Law. (Chapter 374 of NRS) Any amendment to the Local School Support Tax Law is also applicable to other sales and use taxes imposed under existing law. (NRS 354.705, 374A.020, 376A.060, 377.040, 377A.030, 377B.110 and 543.600, and various special and local acts) Sections 4 and 12 of this bill provide for an abatement of these taxes for certain registered motion picture companies who agree to employ Nevada residents.

Existing law authorizes the Board of Directors of the Department of Transportation to allow the movement of oversize or overweight vehicles on the public highways of this State pursuant to permits issued by the Department, and to establish reasonable fees for those permits. (NRS 484.743) Existing law requires the imposition of an additional fee for the issuance of a continuous permit for the movement of such a vehicle to cover the expenses of conducting an initial investigation of the highways involved. (NRS 484.765) Sections 4, 13 and 14 of this bill exempt certain registered motion picture companies who agree to employ Nevada residents from the payment of those fees.

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

Section 1. Chapter 231 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Motion picture" means any feature film, short film, documentary, movie made for television, television program, television series, television pilot, television special or other similar video, digital or electronic production that is:*

- 1. Made, in whole or in part, in this State for commercial purposes; and*
- 2. Intended to be distributed:*
 - (a) In movie theaters;*
 - (b) Over a broadcast, cable, digital or electronic television network;*
 - (c) On videotape, videodisc or other video, digital or electronic medium;*

or

- (d) Over the Internet.*

Sec. 3. *"Motion picture company" means any business or organization that creates or produces a motion picture.*

Sec. 4. *The Division of Motion Pictures shall:*

1. Certify a motion picture company as eligible for the exemptions from fees and abatement of taxes provided pursuant to NRS 366.220, 366.223, 484.743 and 484.765 and section 12 of this act, if the motion picture company:

- (a) Is registered pursuant to NRS 231.128; and*
- (b) Submits an application for that certification to the Division which:*

(1) Contains a provision pursuant to which the motion picture company agrees to ensure that at least 30 percent of the persons employed full time by or under contract with the motion picture company at each of its production sites for a motion picture in this State are residents of this State; and

(2) Is signed by a person who is authorized to enter into an agreement on behalf of the motion picture company;

2. Issue a certificate of eligibility to each motion picture company the Division certifies pursuant to this section; and

3. Forward to the Department of Taxation a copy of each certificate of eligibility the Division issues pursuant to this section.

Sec. 5. NRS 231.020 is hereby amended to read as follows:

231.020 As used in NRS 231.020 to 231.139, inclusive, *and sections 2, 3 and 4 of this act*, unless the context otherwise requires, ~~["motion pictures" includes feature films, movies made for broadcast on television and programs made for broadcast on television in episodes.]~~ *the words and terms defined in sections 2 and 3 of this act have the meanings ascribed to them in those sections.*

Sec. 6. NRS 80.015 is hereby amended to read as follows:

80.015 1. For the purposes of this chapter, the following activities do not constitute doing business in this State:

- (a) Maintaining, defending or settling any proceeding;
- (b) Holding meetings of the board of directors or stockholders or carrying on other activities concerning internal corporate affairs;
- (c) Maintaining accounts in banks or credit unions;
- (d) Maintaining offices or agencies for the transfer, exchange and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;
- (e) Making sales through independent contractors;
- (f) Soliciting or receiving orders outside of this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside of this State and filling them by shipping goods into this State;
- (g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;
- (h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;
- (i) Owning, without more, real or personal property;
- (j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;
- (k) The production of motion pictures as defined in ~~[NRS 231.020.]~~ *section 2 of this act*;
- (l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and
- (m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not doing business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, chapter 645A, 645B or 645E of NRS or title 55 or 56 of NRS unless he:

- (a) Maintains an office in this State for the transaction of business; or
- (b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.

4. The fact that a person is not doing business in this State within the meaning of this section:

- (a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction

over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not doing business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section and for the purposes of NRS 80.016, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 7. NRS 86.5483 is hereby amended to read as follows:

86.5483 1. For the purposes of NRS 86.543 to 86.549, inclusive, the following activities do not constitute transacting business in this State:

- (a) Maintaining, defending or settling any proceeding;
- (b) Holding meetings of the managers or members or carrying on other activities concerning internal company affairs;
- (c) Maintaining accounts in banks or credit unions;
- (d) Maintaining offices or agencies for the transfer, exchange and registration of the company's own securities or maintaining trustees or depositories with respect to those securities;
- (e) Making sales through independent contractors;
- (f) Soliciting or receiving orders outside this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside this State and filling them by shipping goods into this State;
- (g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;
- (h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;
- (i) Owning, without more, real or personal property;
- (j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;
- (k) The production of motion pictures as defined in ~~[NRS 231.020;]~~ *section 2 of this act*;
- (l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and
- (m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not transacting business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, title 55 or 56 of NRS or chapter 645A, 645B or 645E of NRS unless he:

- (a) Maintains an office in this State for the transaction of business; or

(b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.

4. The fact that a person is not transacting business in this State within the meaning of this section:

(a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not transacting business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 8. NRS 88.602 is hereby amended to read as follows:

88.602 1. For the purposes of NRS 88.570 to 88.605, inclusive, the following activities do not constitute transacting business in this State:

(a) Maintaining, defending or settling any proceeding;

(b) Holding meetings of the managers or members or carrying on other activities concerning internal company affairs;

(c) Maintaining accounts in banks or credit unions;

(d) Maintaining offices or agencies for the transfer, exchange and registration of the company's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Making sales through independent contractors;

(f) Soliciting or receiving orders outside this State through or in response to letters, circulars, catalogs or other forms of advertising, accepting those orders outside this State and filling them by shipping goods into this State;

(g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Isolated transactions completed within 30 days and not a part of a series of similar transactions;

(k) The production of motion pictures as defined in ~~[NRS 231.020;]~~ *section 2 of this act*;

(l) Transacting business as an out-of-state depository institution pursuant to the provisions of title 55 of NRS; and

(m) Transacting business in interstate commerce.

2. The list of activities in subsection 1 is not exhaustive.

3. A person who is not transacting business in this State within the meaning of this section need not qualify or comply with any provision of this chapter, title 55 or 56 of NRS or chapter 645A, 645B or 645E of NRS unless he:

- (a) Maintains an office in this State for the transaction of business; or
- (b) Solicits or accepts deposits in the State, except pursuant to the provisions of chapter 666 or 666A of NRS.

4. The fact that a person is not transacting business in this State within the meaning of this section:

- (a) Does not affect the determination of whether any court, administrative agency or regulatory body in this State may exercise personal jurisdiction over the person in any civil action, criminal action, administrative proceeding or regulatory proceeding; and

(b) Except as otherwise provided in subsection 3, does not affect the applicability of any other provision of law with respect to the person and may not be offered as a defense or introduced in evidence in any civil action, criminal action, administrative proceeding or regulatory proceeding to prove that the person is not transacting business in this State, including, without limitation, any civil action, criminal action, administrative proceeding or regulatory proceeding involving an alleged violation of chapter 597, 598 or 598A of NRS.

5. As used in this section, "deposits" means demand deposits, savings deposits and time deposits, as those terms are defined in chapter 657 of NRS.

Sec. 9. NRS 360.765 is hereby amended to read as follows:

360.765 1. Except as otherwise provided in subsection 2, "business" means:

- (a) Any person, except a natural person, that performs a service or engages in a trade for profit; or

(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity.

2. The term does not include:

- (a) A governmental entity.
- (b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. § 501(c).
- (c) A person who operates a business from his home and whose net earnings from that business are not more than $66 \frac{2}{3}$ percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.
- (d) A natural person whose sole business is the rental of four or fewer dwelling units to others.

(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in ~~[NRS 231.020]~~ *section 2 of this act*.

Sec. 10. NRS 366.220 is hereby amended to read as follows:

366.220 1. Except as otherwise provided in this chapter, it is unlawful for any:

(a) Special fuel supplier, special fuel dealer or special fuel user to sell or use special fuel within this State unless the special fuel supplier, special fuel dealer or special fuel user is the holder of a special fuel supplier's, special fuel dealer's or special fuel user's license issued to him by the Department.

(b) Person to be a:

(1) Special fuel exporter unless the person is the holder of a special fuel exporter's license issued to him by the Department.

(2) Special fuel transporter unless the person is the holder of a special fuel transporter's license issued to him by the Department.

(c) Retailer or other person to sell or distribute dyed special fuel unless the retailer or person controls the access to the dyed special fuel.

2. ~~[The]~~ *Except as otherwise provided in subsection 3, the Department may adopt regulations relating to the issuance of any special fuel supplier's, special fuel dealer's, special fuel exporter's, special fuel transporter's or special fuel user's license and the collection of fees therefor.*

3. *A motion picture company that holds a certificate of eligibility issued pursuant to section 4 of this act and is engaged in the making of a motion picture is exempt from the imposition of any fees for a special fuel user's license. If the motion picture company or a person affiliated with the motion picture company wishes to claim the exemption from the fee, the motion picture company or person claiming the exemption must give a copy of the certificate of eligibility of the motion picture company to the Department when applying for the special fuel user's license.*

Sec. 11. NRS 366.223 is hereby amended to read as follows:

366.223 1. A special fuel user may, in lieu of causing a motor vehicle that has a declared gross weight in excess of 26,000 pounds to be licensed pursuant to the provisions of NRS 366.220, obtain a temporary permit for special fuel from a vendor authorized to issue permits pursuant to NRS 481.051 before entering the State or immediately upon entering the State. ~~[The]~~ *Except as otherwise provided in subsection 2, the fee for a temporary permit for special fuel is \$30 and is not refundable.*

2. *A motion picture company that holds a certificate of eligibility issued pursuant to section 4 of this act and is engaged in the making of a motion picture is exempt from the imposition of the \$30 fee imposed pursuant to subsection 1 for any motor vehicle used in the making of the motion picture. If the motion picture company or a person affiliated with the motion picture company wishes to claim the exemption from the fee, the motion picture company or person claiming the exemption must give a copy of the certificate*

of eligibility of the motion picture company to the vendor issuing the temporary permit for special fuel.

3. Except as otherwise provided in subsection ~~{3-}~~ 4, a temporary permit for special fuel authorizes the operation of such a motor vehicle over the highways of this State from point of entry to point of exit for not more than 24 consecutive hours.

~~{3-}~~ 4. The Department may issue to the owner or operator of a common motor carrier of passengers a temporary permit for special fuel that authorizes the operation of the motor carrier for not more than 120 consecutive hours.

~~{4-}~~ 5. The Department may adopt regulations relating to the issuance of a temporary permit for special fuel pursuant to this section.

Sec. 12. Chapter 374 of NRS is hereby amended by adding thereto a new section to read as follows:

A motion picture company that holds a certificate of eligibility issued pursuant to section 4 of this act and is engaged in the making of a motion picture is entitled to an abatement of the taxes imposed pursuant to this chapter on the gross receipts from the sale, and the storage, use or other consumption, of tangible personal property for use by that motion picture company. If the motion picture company or a person affiliated with the motion picture company wishes to claim the abatement, the motion picture company or person claiming the abatement:

1. *May, as evidence of its eligibility for the abatement, give a copy of the certificate of eligibility of the motion picture company to a retailer who sells tangible personal property to the motion picture company; and*

2. *Shall submit to the Department:*

(a) An itemized report of each purchase for which the abatement is claimed, which must include a copy of a receipt for each such purchase; and

(b) A remittance of any unpaid taxes due on each such purchase pursuant to chapter 372 of NRS.

Sec. 13. NRS 484.743 is hereby amended to read as follows:

484.743 1. The Board of Directors of the Department of Transportation may by resolution authorize the movement of vehicles upon the public highways, including without limitation motor vehicles, tractors, trailers, semitrailers and combinations thereof, of a size and weight in excess of the limits prescribed by this chapter, to such extent as may be authorized by any legislation enacted by the Congress of the United States permitting such increases without forfeiture of this State's eligibility for federal aid in highway construction and maintenance.

2. ~~{The}~~ *Except as otherwise provided in subsection 3, the* Board of Directors of the Department of Transportation may by resolution establish a reasonable fee or fees to be charged by the Department for the issuance of permits authorizing the operation of oversize or overweight vehicles as provided in this chapter. The fee or fees so established must be in an amount

set so that the aggregate amounts received from the fee or fees do not exceed the estimated costs of administering the permit system.

3. *A motion picture company that holds a certificate of eligibility issued pursuant to section 4 of this act and is engaged in the making of a motion picture is exempt from the imposition of any fees for the issuance of a permit authorizing the operation of an oversize or overweight vehicle used in the making of the motion picture. If the motion picture company or a person affiliated with the motion picture company wishes to claim the exemption from the fee, the motion picture company or person claiming the exemption must give a copy of the certificate of eligibility of the motion picture company to the Department when applying for the permit.*

Sec. 14. NRS 484.765 is hereby amended to read as follows:

484.765 1. No vehicle operated or moved upon any public highway under the authority of a continuous or multiple trip-limited time permit may exceed a maximum weight of 20,000 pounds on any single axle. ~~[Before]~~ Except as otherwise provided in subsection 3, before any continuous permit is issued, the applicant shall pay a reasonable fee to be determined by the Department of Transportation or the governing body of any city or county to pay the costs and expenses of conducting an initial investigation of the highway or highways involved.

2. If, after issuance of a continuous or multiple trip-limited time permit by the Department of Transportation or the governing body of any city or county, the Department or governing body finds that the traffic authorized by such continuous or multiple trip-limited time permit has caused substantial highway distress, the permit may be revoked summarily, but the revocation does not operate to prevent a subsequent filing of a new application for another continuous or multiple trip-limited time permit.

3. *A motion picture company that holds a certificate of eligibility issued pursuant to section 4 of this act and is engaged in the making of a motion picture is exempt from the imposition of any fees established pursuant to subsection 1 for any vehicle used in the making of the motion picture. If the motion picture company or a person affiliated with the motion picture company wishes to claim the exemption from the fee, the motion picture company or person claiming the exemption must give a copy of the certificate of eligibility of the motion picture company to the Department when applying for the continuous permit.*

Sec. 15. This act becomes effective on July 1, ~~[2007]~~ 2009.

Senator Coffin moved the adoption of the amendment.

Remarks by Senator Coffin.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 381.

Bill read third time.

Senator Amodei moved that Senate Bill No. 381 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Amodei.

Motion carried.

Senate Bill No. 437.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 974.

"SUMMARY—Revises provisions concerning generation and consumption of energy. (BDR 58-232)"

"AN ACT relating to energy; replacing the Solar Energy Systems Demonstration Program Act with the Solar Energy Systems Incentive Program, which provides incentives to certain participants and utilities for energy created from various solar energy systems; providing for the Renewable Energy School Pilot Program, which encourages the development of and determines the feasibility for renewable energy systems on public school properties; establishing a new program for evaluating the energy consumption of residential property; revising legislative findings concerning energy conservation and energy requirements; allocating a portion of the unspent money in the Fund for Energy Assistance and Conservation for a program for improving energy conservation and energy efficiency in residential property; requiring certain electric utilities to make quarterly rate adjustments; requiring the creation of various methods and programs to remove financial disincentives that may discourage energy conservation by various public utilities that purchase natural gas for resale; making various changes relating to the definition of "net metering system"; making various changes relating to offers of net metering to customer-generators; making various changes relating to calculations of net energy measurements concerning net metering systems; changing the definition of "energy efficiency measure," as regards certain persons or entities that sell electricity to retail customers; changing the amount of electricity required to be generated, acquired or saved from solar renewable energy systems, as regards certain persons or entities that sell electricity to retail customers; making various changes relating to the definition of "utility facility" as it relates to the construction of utility facilities and environmental conservation; requiring certain residential properties for sale to be evaluated based on energy consumption and requiring that certain evaluations be provided to purchasers of those properties; ~~providing for and revising requirements relating to the analysis of operation and maintenance costs of certain public works; revising certain environmental design standards for building purposes relating to public works; creating certain partial tax abatements and requirements regarding assessed values for real property and environmental design and renewable energy system standards; revising the expiration dates for certain partial abatements on various property taxes for certain businesses;~~ enacting

the Wind Energy Systems Demonstration Program Act, which provides incentives to certain participants and utilities for energy created from various wind energy systems; enacting the Waterpower Energy Systems Demonstration Program Act, which provides incentives to certain participants and utilities for energy created from various waterpower energy systems; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under the Solar Energy Systems Demonstration Program Act, certain entities, such as schools and public agencies, which install solar energy systems are entitled to participate in a demonstration program and receive incentives for such participation. (Chapter 331, Statutes of Nevada 2003, p. 1868) The Solar Energy Systems Demonstration Program Act expires by limitation on June 30, 2010. (Chapter 2, Statutes of Nevada 2005, 22nd Special Session, p. 90)

Sections 1-29 ~~1-63~~ and 112 of this bill replace the Solar Energy Systems Demonstration Program Act with a new chapter of NRS which provides for the Solar Energy Systems Incentive Program. The Solar Energy Systems Incentive Program provides incentives to certain participants and utilities for energy created from various solar energy systems.

Section 30 of this bill provides for the Renewable Energy School Pilot Program. The goal of the Program is to encourage the development of and determine the feasibility for renewable energy systems on public school properties.

Sections 62-86 of this bill enact the Wind Energy Systems Demonstration Program Act. The Wind Energy Systems Demonstration Program Act provides incentives to certain participants and utilities for energy created from various wind energy systems. Under this bill, the Wind Energy Systems Demonstration Program Act expires by limitation on June 30, 2011.

Sections 87-106 of this bill enact the Waterpower Energy Systems Demonstration Program Act. The Waterpower Energy Systems Demonstration Program Act provides incentives to certain participants and utilities for energy created from various waterpower energy systems. Under this bill, the Waterpower Energy Systems Demonstration Program Act expires by limitation on June 30, 2011.

Existing law provides various requirements relating to the sale of residential property. (NRS 113.100-113.150, 645.230-645.321) Sections 31, 33-35 and 50 of this bill: (1) establish a new program for evaluating the energy consumption of residential property; (2) allocate a portion of the unspent money in the Fund for Energy Assistance and Conservation for a program of improving energy conservation and energy efficiency in residential property; and (3) require certain residential properties for sale to be evaluated based on energy consumption and require that such evaluations and ratings be provided to purchasers of those properties.

Existing law contains legislative findings concerning energy conservation and energy requirements. (NRS 701.010) Sections 32 and 38 of this bill

accomplish two things. First, they revise those findings in relation to public utilities. Second, they require the creation of various methods and programs which will remove financial disincentives that discourage energy conservation by various public utilities that purchase natural gas for resale.

Existing law allows for quarterly rate adjustments for a public utility which purchases natural gas for resale. (NRS 704.110) Sections 36, 37, 39-43 and 51 of this bill require certain electric utilities to also make such quarterly rate adjustments.

Existing law provides for requirements relating to electric utilities and net metering systems. (NRS 704.766-704.775) Existing law also provides for requirements relating to the construction of utility facilities and environmental conservation as cited in the Utility Environmental Protection Act. (NRS 704.820-704.900) Sections 44-46 and 49 of this bill make various changes relating to the definition of "net metering system," offers of net metering to customer-generators, calculations relating to net energy measurements as regards net metering systems, and the definition of "utility facility" as it relates to the construction of utility facilities and environmental conservation.

Existing law requires certain persons or entities that sell electricity to retail customers to generate, acquire or save various amounts of electricity through renewable energy systems or efficiency measures. (NRS 704.7801-704.7828) Sections 47 and 48 of this bill change the definition of "energy efficiency measure" and the amount of electricity required to be generated, acquired or saved from solar renewable energy systems.

~~f Existing law provides for certain requirements concerning public works contracts, including requirements concerning the acceptance of bids, the costs of operating the public work and the various standards of environmental design. (NRS 338.1373-338.645) Sections 52-56 of this bill provide for and revise requirements relating to the analysis of operation and maintenance costs, and revise certain environmental design standards for building purposes.~~

~~Existing law provides requirements for the partial abatement of certain property taxes, including property taxes for various residences. (NRS 361.471-361.4735) Sections 57-59 of this bill create certain partial tax abatements and certain requirements regarding assessed values for real property, as the abatements and requirements relate to residences which meet various environmental design and renewable energy system standards.~~

~~Existing law provides for certain new or expanded businesses to receive a partial abatement on various property taxes. (NRS 361.0687) Sections 107 and 109-111 of this bill revise the expiration dates for such partial abatements.~~

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

Section 1. Title 58 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 30, inclusive, of this act.

Sec. 2. *The provisions of sections 2 to 29, inclusive, of this act apply to the Solar Energy Systems Incentive Program.*

Sec. 3. *As used in sections 2 to 29, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 19, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Applicant" means a person who is applying to participate in the Solar Program.*

Sec. 5. *"Category" means one of the categories of participation in the Solar Program as set forth in section 23 of this act.*

Sec. 6. *"Commission" means the Public Utilities Commission of Nevada.*

Sec. 7. *"Institution of higher education" means:*

1. *A university, college or community college which is privately owned or which is part of the Nevada System of Higher Education; or*

2. *A postsecondary educational institution, as defined in NRS 394.099, or any other institution of higher education.*

Sec. 8. *"Owned, leased or occupied" includes, without limitation, any real property, building or facilities which are owned, leased or occupied under a deed, lease, contract, license, permit, grant, patent or any other type of legal authorization.*

Sec. 9. *"Participant" means a person who has been selected by the Commission to participate in the Solar Program.*

Sec. 10. *"Person" includes, without limitation, a public entity.*

Sec. 11. *"Program year" means the period of July 1 to June 30 of the following year.*

Sec. 12. 1. *"Public and other property" means any real property, building or facilities which are owned, leased or occupied by:*

(a) *A public entity;*

(b) *A nonprofit organization that is recognized as exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), as amended; or*

(c) *A corporation for public benefit as defined in NRS 82.021.*

2. *The term includes, without limitation, any real property, building or facilities which are owned, leased or occupied by:*

(a) *A church; or*

(b) *A benevolent, fraternal or charitable lodge, society or association.*

3. *The term does not include school property.*

Sec. 13. *"Public entity" means a department, agency or instrumentality of the State or any of its political subdivisions.*

Sec. 14. *"School property" means any real property, building or facilities which are owned, leased or occupied by:*

1. *A public school as defined in NRS 385.007;*

2. *A private school as defined in NRS 394.103; or*

3. *An institution of higher education.*

Sec. 15. *"Small business" means a business conducted for profit which employs 500 or fewer full-time or part-time employees.*

Sec. 16. *"Solar energy system" means a facility or energy system that uses photovoltaic cells and solar energy to generate electricity.*

Sec. 17. *"Solar Program" means the Solar Energy Systems Incentive Program created by section 23 of this act.*

Sec. 18. *"Task Force" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.*

Sec. 19. *"Utility" means a public utility that supplies electricity in this State.*

Sec. 20. *The Commission shall adopt regulations necessary to carry out the provisions of this chapter, including, without limitation, regulations that establish:*

1. *The type of incentives available to participants in the Solar Program and the level or amount of those incentives;*

2. *The requirements for a utility's annual plan for carrying out and administering the Solar Program. A utility's annual plan must include, without limitation:*

(a) *A detailed plan for advertising the Solar Program;*

(b) *A detailed budget and schedule for carrying out and administering the Solar Program;*

(c) *A detailed account of administrative processes and forms that will be used to carry out and administer the Solar Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Solar Program;*

(d) *A detailed account of the procedures that will be used for inspection and verification of a participant's solar energy system and compliance with the Solar Program;*

(e) *A detailed account of training and educational activities that will be used to carry out and administer the Solar Program; and*

(f) *Any other information required by the Commission.*

Sec. 21. *In consultation with the Task Force, the Commission shall adopt regulations that establish:*

1. *The qualifications and requirements an applicant must meet to be eligible to participate in each applicable category of:*

(a) *School property;*

(b) *Public and other property; and*

(c) *Private residential property and small business property; and*

2. *The form and content of the master application which a utility must submit to the Commission pursuant to section 24 of this act.*

Sec. 22. 1. *Each year on or before the date established by the Commission, a utility shall file with the Commission its annual plan for*

carrying out and administering the Solar Program within its service area for a program year.

2. The Commission shall:

(a) Review each annual plan filed by a utility for compliance with the requirements established by regulation of the Commission; and

(b) Approve each annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Solar Program.

3. A utility shall carry out and administer the Solar Program within its service area in accordance with the utility's annual plan as approved by the Commission.

4. A utility may recover its reasonable and prudent costs, including, without limitation, incentives, that are associated with carrying out and administering the Solar Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 23. 1. The Solar Energy Systems Incentive Program is hereby created.

2. The Solar Program must have three categories as follows:

(a) School property;

(b) Public and other property; and

(c) Private residential property and small business property.

3. To be eligible to participate in the Solar Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to section 21 of this act;

(b) Submit an application to a utility and be selected by the Commission for inclusion in the Solar Program pursuant to sections 24 and 25 of this act;

(c) When installing the solar energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Solar Program in the category of school property or public and other property, provide for the public display of the solar energy system, including, without limitation, providing for public demonstrations of the solar energy system and for hands-on experience of the solar energy system by the public.

Sec. 24. 1. If an applicant desires to participate in the Solar Program for a program year, the applicant must submit an application to a utility. If an applicant desires to participate in the category of school property or public and other property, the applicant may submit an application for multiple program years, not to exceed 5 years.

2. Each year on or before the date established by the Commission, a utility shall review each application submitted pursuant to subsection 1 to ensure that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program and submit to the Commission:

(a) The utility's recommendations as to which applications should be approved for participation in the Solar Program; and

(b) A master application containing all the applications recommended by the utility.

3. *At any time after submitting an application to a utility, an applicant may install or energize his solar energy system if the solar energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who installs or energizes his solar energy system under such circumstances remains eligible to participate in the Solar Program, and the installation or energizing of the solar energy system does not alter the applicant's status on the list of participants or the prioritized waiting list pursuant to section 25 of this act.*

Sec. 25. 1. *Except as otherwise provided in subsection 2, the Commission may approve, for a program year, solar energy systems:*

(a) Totaling 1,000 kilowatts of capacity for school property;

(b) Totaling 760 kilowatts of capacity for public and other property; and

(c) Totaling 1,000 kilowatts of capacity for private residential property and small business property.

2. *If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Commission may, in any combination it deems appropriate:*

(a) Allow a utility to submit additional applications from applicants who want to participate in that category; or

(b) Reallocate any of the unused capacity in that category to any of the other categories,

↪ but in no case may the sum of the allocated total capacities of all the categories be greater than 2,760 kilowatts, which is the sum of the approvable total capacities of all the categories as described in subsection 1.

3. *After reviewing the master application submitted by a utility pursuant to section 24 of this act, to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, the Commission shall:*

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Solar Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Solar Program if any capacity within a category becomes available.

4. *Not later than 30 days after the date on which the Commission selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the Commission on behalf of the applicant shall provide written notice of the selection to the applicant.*

5. *After the Commission selects an applicant to be on the list of participants, the utility which submitted the application to the Commission on behalf of the applicant may approve the solar energy system proposed by*

the applicant. Except as otherwise provided in subsection 3 of section 24 of this act, immediately upon the utility's approval of the solar energy system, the applicant may install and energize the solar energy system.

Sec. 26. 1. Except as otherwise provided in this section, if the Commission determines that a participant has not complied with the requirements for participation in the Solar Program, the Commission shall, after notice and an opportunity for a hearing, withdraw the participant from the Solar Program.

2. The Commission may, without notice or an opportunity for a hearing, withdraw from the Solar Program:

(a) A participant in the category of private residential property and small business property, if the participant does not complete the installation of a solar energy system within 12 months after the date the participant receives written notice of his selection to participate in the Solar Program.

(b) A participant in the category of school property or public and other property, if the participant does not complete the installation of a solar energy system within 30 months after the date the participant receives written notice of his selection to participate in the Solar Program.

3. A participant who is withdrawn from the Solar Program pursuant to subsection 2 forfeits any incentives.

Sec. 27. In adopting regulations for the Solar Program, the Commission shall adopt regulations establishing an incentive for participation in the Solar Program.

Sec. 28. If a solar energy system used by a participant in the Solar Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 29. 1. After a participant installs a solar energy system included in the Solar Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821.

2. The Commission shall designate the portfolio energy credits issued pursuant to this section as portfolio energy credits generated, acquired or saved from solar renewable energy systems for the purposes of the portfolio standard.

Sec. 30. 1. The Renewable Energy School Pilot Program is hereby created. The goal of the Program is to encourage the development of and determine the feasibility for the integration of renewable energy systems on school properties.

2. The Commission shall adopt regulations for the Program. Such regulations shall include, but not be limited to:

(a) A time frame for implementation of the Program;

(b) The allowed renewable energy systems and combinations of such renewable energy systems on school property;

(c) *The amount of capacity that may be installed at each school property that participates in the Program;*

(d) *A process by which a school district may apply for participation in the Program;*

(e) *Requirements for participation by a school district;*

(f) *The type of transactions allowed between a renewable energy system generator, a school district and a utility;*

(g) *Incentives which may be provided to a school district or school property to encourage participation; and*

(h) *Such other parameters as determined by the Commission and are consistent with the development of renewable energy systems at school properties.*

3. *The Program shall be limited to 10 school properties. Not more than 6 school properties from any one school district may participate in the Program.*

4. *The Commission shall adopt the regulations necessary to implement the Program not later than March 1, 2008.*

5. *The Commission shall prepare a report detailing the results of the Program and shall submit the report to the Legislature by December 1, 2008.*

6. *As used in this section:*

(a) *"Commission" means the Public Utilities Commission of Nevada.*

(b) *"Owned, leased or occupied" includes, without limitation, any real property, building or facilities which are owned, leased or occupied under a deed, lease, contract, license, permit, grant, patent or any other type of legal authorization.*

(c) *"Renewable energy system" has the meaning ascribed to it in NRS 704.7815.*

(d) *"School district" has the meaning ascribed to it in NRS 395.0075.*

(e) *"School property" means any real property, building or facilities which are owned, leased or occupied by a public school as defined in NRS 385.007.*

(f) *"Utility" has the meaning ascribed to it in section 19 of this act.*

Sec. 31. Chapter 701 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The Director shall adopt regulations establishing a program for evaluating the energy consumption of residential property in this State.*

2. *The regulations must include, without limitation:*

(a) *Standards for evaluating the energy consumption of residential property; and*

(b) *Provisions prescribing a form to be used pursuant to section 50 of this act, including, without limitation, provisions that require a portion of the form to provide information on the program of improving energy conservation and energy efficiency in residential property created pursuant to section 33 of this act.*

3. *As used in this section:*

(a) *"Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one person who maintains a household or by two or more persons who maintain a common household.*

(b) *"Residential property" means any land in this State to which is affixed not less than one or more than four dwelling units.*

Sec. 32. NRS 701.010 is hereby amended to read as follows:

701.010 1. The Legislature finds that:

(a) Energy is essential to the economy of the State and to the health, safety and welfare of the people of the State.

(b) The State has a responsibility to encourage the maintenance of a reliable and economical supply of energy at a level which is consistent with the protection of environmental quality.

(c) The State has a responsibility to encourage the utilization of a wide range of measures which reduce wasteful uses of energy resources.

(d) *The State and the public have an interest in encouraging public utilities to promote and take actions toward energy conservation.*

(e) Planning for energy conservation and future energy requirements should include consideration of state, regional and local plans for land use, urban expansion, transportation systems, environmental protection and economic development.

~~[(e)]~~ (f) Government and private enterprise need to accelerate research and development of sources of renewable energy and to improve technology related to the research and development of existing sources of energy.

~~[(f)]~~ (g) While government and private enterprise are seeking to accelerate research and development of sources of renewable energy, they must also prepare for and respond to the advent of competition within the electrical energy industry and are, therefore, encouraged to maximize the use of indigenous energy resources to the extent competitively and economically feasible.

~~[(g)]~~ (h) Prevention of delays and interruptions in providing energy, protecting environmental values and conserving energy require expanded authority and capability within State Government.

2. It is the policy of this State to encourage participation with all levels of government and private enterprise in cooperative state, regional and national programs to assure adequate supplies of energy resources and markets for such energy resources.

3. It is the policy of this State to assign the responsibility for managing and conserving energy and its sources to agencies whose other programs are similar, to avoid duplication of effort in developing policies and programs for energy.

Sec. 33. Chapter 702 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *At the beginning of a fiscal year, 50 percent of the money in the Fund which was allocated to the Division of Welfare and Supportive Services*

during the preceding fiscal year pursuant to NRS 702.260 and which remains unspent and unencumbered must be distributed to the Housing Division for a program of improving energy conservation and energy efficiency in residential property. The Housing Division may use not more than 6 percent of the money distributed pursuant to this section for its administrative expenses.

2. Except as otherwise provided in NRS 702.150, after deduction for its administrative expenses, the Housing Division may use the money distributed pursuant to this section only to provide a qualified purchaser of residential property which has received a deficient evaluation on the energy consumption of the residential property pursuant to the program established in section 31 of this act with a grant to pay for improvements designed to increase the energy conservation and energy efficiency of the residential property or to assist an eligible household in acquiring such improvements.

3. To be eligible to receive assistance from the Housing Division pursuant to this section:

(a) The purchaser of the residential property must have a household income that is not more than 80 percent of the median gross family income for the county in which the property is located, based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for that county; and

(b) The residential property must not meet the standards for energy consumption established pursuant to section 31 of this act.

4. The Housing Division shall adopt regulations to carry out and enforce the provisions of this section.

5. In carrying out the provisions of this section, the Housing Division shall:

(a) Solicit advice from the Division of Welfare and Supportive Services and from other knowledgeable persons;

(b) Identify and implement appropriate delivery systems to distribute money from the Fund and to provide other assistance pursuant to this section;

(c) Coordinate with other federal, state and local agencies that provide energy assistance or conservation services to low-income persons and, to the extent allowed by federal law and to the extent practicable, use the same simplified application forms as those other agencies;

(d) Encourage other persons to provide resources and services, including, to the extent practicable, schools and programs that provide training in the building trades and apprenticeship programs;

(e) Establish a process for evaluating the program conducted pursuant to this section;

(f) Develop a process for making changes to the program; and

(g) Engage in annual planning and evaluation processes with the Division of Welfare and Supportive Services as required by NRS 702.280.

Sec. 34. NRS 702.250 is hereby amended to read as follows:

702.250 1. There is hereby created as a special revenue fund in the State Treasury the Fund for Energy Assistance and Conservation. The Division of Welfare and Supportive Services shall administer the Fund.

2. In addition to the money that must be credited to the Fund from the universal energy charge, all money received from private or public sources to carry out the purposes of this chapter must be deposited in the State Treasury for credit to the Fund.

3. The Division shall, to the extent practicable, ensure that the money in the Fund is administered in a manner which is coordinated with all other sources of money that are available for energy assistance and conservation, including, without limitation, money contributed from private sources, money obtained from the Federal Government and money obtained from any agency or instrumentality of this State or political subdivision of this State.

4. The interest and income earned on the money in the Fund, after deducting any applicable charges, must be credited to the Fund. All claims against the Fund must be paid as other claims against the State are paid.

5. After deduction of any refunds paid from the Fund pursuant to NRS 702.160, the money in the Fund must be distributed pursuant to NRS 702.260 and 702.270 ~~and~~ *and section 33 of this act*.

Sec. 35. NRS 702.280 is hereby amended to read as follows:

702.280 1. The Division of Welfare and Supportive Services and the Housing Division jointly shall establish an annual plan to coordinate their activities and programs pursuant to this chapter. In preparing the annual plan, the Divisions shall solicit advice from knowledgeable persons. The annual plan must include, without limitation, a description of:

(a) The resources and services being used by each program and the efforts that will be undertaken to increase or improve those resources and services;

(b) The efforts that will be undertaken to improve administrative efficiency;

(c) The efforts that will be undertaken to coordinate with other federal, state and local agencies, nonprofit organizations and any private business or trade organizations that provide energy assistance or conservation services to low-income persons;

(d) The measures concerning program design that will be undertaken to improve program effectiveness; and

(e) The efforts that will be taken to address issues identified during the most recently completed annual evaluation conducted pursuant to subsection 2.

2. The Division of Welfare and Supportive Services and the Housing Division jointly shall:

(a) Conduct an annual evaluation of the programs that each Division carries out pursuant to NRS 702.260 and 702.270 ~~and~~ *and section 33 of this act*;

(b) Solicit advice from the Commission as part of the annual evaluation; and

(c) Prepare a report concerning the annual evaluation and submit the report to the Governor, the Legislative Commission and the Interim Finance Committee.

3. The report prepared pursuant to subsection 2 must include, without limitation:

- (a) A description of the objectives of each program;
- (b) An analysis of the effectiveness and efficiency of each program in meeting the objectives of the program;
- (c) The amount of money distributed from the Fund for each program and a detailed description of the use of that money for each program;
- (d) An analysis of the coordination between the Divisions concerning each program; and
- (e) Any changes planned for each program.

Sec. 36. NRS 703.130 is hereby amended to read as follows:

703.130 1. The Commission shall appoint a Deputy Commissioner who shall serve in the unclassified service of the State.

2. The Commission shall appoint a Secretary who shall perform such administrative and other duties as are prescribed by the Commission. The Commission shall also appoint an Assistant Secretary.

3. The Commission may employ such other clerks, experts or engineers as may be necessary.

4. Except as otherwise provided in subsection 5, the Commission:

(a) May appoint one or more hearing officers for a period specified by the Commission to conduct proceedings or hearings that may be conducted by the Commission pursuant to NRS 702.160 and 702.170 and chapters 704, 704A, 704B, 705, 708 and 711 of NRS.

(b) Shall prescribe by regulation the procedure for appealing a decision of a hearing officer to the Commission.

5. The Commission shall not appoint a hearing officer to conduct proceedings or hearings:

(a) In any matter pending before the Commission pursuant to NRS 704.7561 to 704.7595, inclusive; or

(b) In any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an *annual deferred energy accounting adjustment* application. ~~{to clear its deferred accounts.}~~

6. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 37. NRS 703.320 is hereby amended to read as follows:

703.320 Except as otherwise provided in ~~{subsection 8}~~ *subsections 8 and 9* of NRS 704.110:

1. In any matter pending before the Commission, if a hearing is required by a specific statute or is otherwise required by the Commission, the Commission shall give notice of the pendency of the matter to all persons entitled to notice of the hearing. The Commission shall by regulation specify:

- (a) The manner of giving notice in each type of proceeding; and
- (b) The persons entitled to notice in each type of proceeding.

2. The Commission shall not dispense with a hearing:

(a) In any matter pending before the Commission pursuant to NRS 704.7561 to 704.7595, inclusive; or

(b) Except as otherwise provided in *paragraph (f) of subsection [5] 1* of NRS 704.100, in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an ~~application to clear its deferred accounts.~~ *annual deferred energy accounting adjustment application pursuant to NRS 704.187.*

3. In any other matter pending before the Commission, the Commission may dispense with a hearing and act upon the matter pending unless, within 10 days after the date of the notice of pendency, a person entitled to notice of the hearing files with the Commission a request that the hearing be held. If such a request for a hearing is filed, the Commission shall give at least 10 days' notice of the hearing.

4. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 38. Chapter 704 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commission shall adopt regulations to establish methods and programs for a public utility which purchases natural gas for resale that remove financial disincentives which discourage the public utility from supporting energy conservation, including, without limitation:

(a) Procedures for a public utility which purchases natural gas for resale to have a mechanism established during a general rate application filed pursuant to NRS 704.110 to ensure that the costs of the public utility for providing service are recovered without regard to the difference in the quantity of natural gas actually sold by the public utility by taking into account the adjusted and annualized quantity of natural gas sold during a test year and the growth in the number of customers of the public utility;

(b) Procedures for a public utility which purchases natural gas for resale to apply to the Commission for approval of an activity relating to increasing energy efficiency or energy conservation; and

(c) Procedures for a public utility which purchases natural gas for resale to apply to the Commission for the recovery of costs associated with an activity approved by the Commission pursuant to paragraph (b).

2. The regulations adopted pursuant to subsection 1 must ensure that the methods and programs consider the recovery of costs, stabilization of revenue and any reduction of risk for the public utility which purchases natural gas for resale.

Sec. 39. NRS 704.062 is hereby amended to read as follows:

704.062 "Application to make changes in any schedule" and "application" include, without limitation:

1. A general rate application;
2. An application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale; and
3. An *annual deferred energy accounting adjustment* application. ~~{to clear deferred accounts.}~~

Sec. 40. NRS 704.069 is hereby amended to read as follows:

704.069 1. Except as otherwise provided in ~~{subsection 8}~~ *subsections 8 and 9* of NRS 704.110, the Commission shall conduct a consumer session to solicit comments from the public in any matter pending before the Commission pursuant to NRS 704.061 to 704.110, inclusive, in which:

(a) A public utility has filed a general rate application, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale ~~{or an application to clear its deferred accounts.}~~, *an annual deferred energy accounting adjustment application pursuant to NRS 704.187 or an annual rate adjustment application;* and

(b) The changes proposed in the application will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that will exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less.

2. In addition to the case-specific consumer sessions required by subsection 1, the Commission shall, during each calendar year, conduct at least one general consumer session in the county with the largest population in this State and at least one general consumer session in the county with the second largest population in this State. At each general consumer session, the Commission shall solicit comments from the public on issues concerning public utilities. Not later than 60 days after each general consumer session, the Commission shall submit the record from the general consumer session to the Legislative Commission.

Sec. 41. NRS 704.100 is hereby amended to read as follows:

704.100 1. Except as otherwise provided in NRS 704.075 and 704.68904 to 704.68984, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 or pursuant to the regulations adopted by the Commission in accordance with subsection 4 of NRS 704.040:

~~{1.}~~ (a) A public utility shall not make changes in any schedule, unless the public utility:

~~{(a)}~~ (1) Files with the Commission an application to make the proposed changes and the Commission approves the proposed changes pursuant to NRS 704.110; or

~~{(b)}~~ (2) Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of ~~{subsection 5.2.}~~ *paragraph (f).*

(b) A public utility shall adjust its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8 of NRS 704.110

based on changes in the public utility's recorded costs of natural gas purchased for resale.

~~{3.}~~ (c) *An electric utility shall, between annual deferred energy accounting adjustment applications filed pursuant to NRS 704.187, adjust its rates on a quarterly basis pursuant to subsection 9 of NRS 704.110.*

(d) A public utility shall post copies of all proposed schedules and all new or amended schedules in the same offices and in substantially the same form, manner and places as required by NRS 704.070 for the posting of copies of schedules that are currently in force.

~~{4.}~~ (e) A public utility may not set forth as justification for a rate increase any items of expense or rate base that previously have been considered and disallowed by the Commission, unless those items are clearly identified in the application and new facts or considerations of policy for each item are advanced in the application to justify a reversal of the prior decision of the Commission.

~~{5.}~~ (f) Except as otherwise provided in ~~{subsection 6.}~~ paragraph (g), if the proposed change in any schedule does not change any rate or will result in an increase in annual gross operating revenue, as certified by the public utility, in an amount that does not exceed \$2,500:

~~{(a)}~~ (1) The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application; and

~~{(b)}~~ (2) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.

~~{6.}~~ (g) If the applicant is a public utility furnishing telephone service and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed \$50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the Commission shall determine whether it should dispense with a hearing regarding the proposed change.

~~{7.}~~ (h) In making the determination pursuant to ~~{subsection 5 or 6.}~~ paragraph (f) or (g), the Commission shall first consider all timely written protests, any presentation that the Regulatory Operations Staff of the Commission may desire to present, the application of the public utility and any other matters deemed relevant by the Commission.

2. *As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.*

Sec. 42. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 and 704.68904 to 704.68984, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097 or pursuant to the regulations adopted by the Commission in accordance with subsection 4 of NRS 704.040:

1. If a public utility files with the Commission an application to make changes in any schedule, including, without limitation, changes that will result in a discontinuance, modification or restriction of service, the Commission shall investigate the propriety of the proposed changes to

determine whether to approve or disapprove the proposed changes. If an electric utility files such an application and the application is a general rate application or an *annual deferred energy accounting adjustment* application, ~~[to clear its deferred accounts,]~~ the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in subsections 3 and ~~[13,]~~ 12, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall issue a written order approving or disapproving, in whole or in part, the proposed changes:

(a) For a public utility that is a PAR carrier, not later than 180 days after the date on which the application is filed; and

(b) For all other public utilities, not later than 210 days after the date on which the application is filed.

3. If a public utility files with the Commission a general rate application, the public utility shall submit with its application a statement showing the recorded results of revenues, expenses, investments and costs of capital for its most recent 12 months for which data were available when the application was prepared. Except as otherwise provided in subsection 4, in determining whether to approve or disapprove any increased rates, the Commission shall consider evidence in support of the increased rates based upon actual recorded results of operations for the same 12 months, adjusted for increased revenues, any increased investment in facilities, increased expenses for depreciation, certain other operating expenses as approved by the Commission and changes in the costs of securities which are known and are measurable with reasonable accuracy at the time of filing and which will become effective within 6 months after the last month of those 12 months, but the public utility shall not place into effect any increased rates until the changes have been experienced and certified by the public utility to the Commission and the Commission has approved the increased rates. The Commission shall also consider evidence supporting expenses for depreciation, calculated on an annual basis, applicable to major components of the public utility's plant placed into service during the recorded test period or the period for certification as set forth in the application. Adjustments to revenues, operating expenses and costs of securities must be calculated on an annual basis. Within 90 days after the date on which the certification required by this subsection is filed with the Commission, or within the period set forth in subsection 2, whichever time is longer, the Commission shall make such order in reference to the increased rates as is required by this chapter. An electric utility shall file a general rate application pursuant to this subsection at least once every ~~[24]~~ 36 months based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file a general rate application on or before ~~[October 3, 2005,]~~ December 3, 2007, and at least once every ~~[24]~~ 36 months thereafter.

(b) An electric utility that primarily serves densely populated counties shall file a general rate application on or before ~~[November 15, 2006,]~~ *December 3, 2008*, and at least once every ~~[24]~~ 36 months thereafter.

4. In addition to submitting the statement required pursuant to subsection 3, a public utility which purchases natural gas for resale *or an electric utility* may submit with its general rate application a statement showing the effects, on an annualized basis, of all expected changes in circumstances. If such a statement is filed, it must include all increases and decreases in revenue and expenses which may occur within 210 days after the date on which its general rate application is filed with the Commission if such expected changes in circumstances are reasonably known and are measurable with reasonable accuracy. If a public utility submits such a statement, the public utility has the burden of proving that the expected changes in circumstances set forth in the statement are reasonably known and are measurable with reasonable accuracy. If the Commission determines that the public utility has met its burden of proof:

(a) The Commission shall consider the statement submitted pursuant to this subsection and evidence relevant to the statement in addition to the statement required pursuant to subsection 3 as evidence in establishing just and reasonable rates for the public utility; and

(b) The public utility is not required to file with the Commission the certification that would otherwise be required pursuant to subsection 3.

5. If a public utility files with the Commission an application to make changes in any schedule and the Commission does not issue a final written order regarding the proposed changes within the time required by this section, the proposed changes shall be deemed to be approved by the Commission.

6. If a public utility files with the Commission a general rate application, the public utility shall not file with the Commission another general rate application until all pending general rate applications filed by that public utility have been decided by the Commission unless, after application and hearing, the Commission determines that a substantial financial emergency would exist if the public utility is not permitted to file another general rate application sooner. The provisions of this subsection do not prohibit the public utility from filing with the Commission, while a general rate application is pending, an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale pursuant to subsection 7, *a quarterly rate adjustment pursuant to subsection 8 or 9, any information relating to deferred accounting requirements pursuant to NRS 704.185 or an annual deferred energy accounting adjustment application* ~~[to clear its deferred accounts pursuant to subsection 9,]~~ *pursuant to NRS 704.187*, if the public utility is otherwise authorized *to so file* by those provisions. ~~[to file such an application.]~~

7. A public utility may file an application to recover the increased cost of purchased fuel, purchased power, or natural gas purchased for resale once every 30 days. The provisions of this subsection do not apply to:

(a) An electric utility ~~{using deferred accounting pursuant to NRS 704.187;}~~ *which is required to adjust its rates on a quarterly basis pursuant to subsection 9; or*

(b) A public utility which purchases natural gas for resale and which adjusts its rates on a quarterly basis between annual rate adjustment applications pursuant to subsection 8.

8. A public utility which purchases natural gas for resale must request approval from the Commission to adjust its rates on a quarterly basis between annual rate adjustment applications based on changes in the public utility's recorded costs of natural gas purchased for resale. If the Commission approves such a request:

(a) The public utility shall file written notice with the Commission before the public utility makes a quarterly rate adjustment between annual rate adjustment applications. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) The public utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The public utility shall begin providing such written notice to its customers not later than 30 days after the date on which the public utility files its written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the public utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) The public utility shall file an annual rate adjustment application with the Commission. The annual rate adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual rate adjustment application must include a review of each quarterly rate adjustment and a review of the

transactions and recorded costs of natural gas included in each quarterly rate adjustment and the annual rate adjustment application. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application, and the public utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the public utility to recover any recorded costs of natural gas which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the public utility, and the Commission shall order the public utility to adjust its rates if the Commission determines that any recorded costs of natural gas included in any quarterly rate adjustment or the annual rate adjustment application were not reasonable or prudent.

~~9. [Except as otherwise provided in subsection 10 and subsection 5 of NRS 704.100, if an electric utility using deferred accounting pursuant to NRS 704.187 files an application to clear its deferred accounts and to change one or more of its rates based upon changes in the costs for purchased fuel or purchased power, the Commission, after a public hearing and by an appropriate order:~~

~~(a) Shall allow the electric utility to clear its deferred accounts by refunding any credit balance or recovering any debit balance over a period not to exceed 3 years, as determined by the Commission.~~

~~(b) Shall not allow the electric utility to recover any debit balance, or portion thereof, in an amount that would result in a rate of return during the period of recovery that exceeds the rate of return authorized by the Commission in the most recently completed rate proceeding for the electric utility.~~

~~10. Before allowing an electric utility to clear its deferred accounts pursuant to subsection 9, the Commission shall determine whether the costs for purchased fuel and purchased power that the electric utility recorded in its deferred accounts are recoverable and whether the revenues that the electric utility collected from customers in this State for purchased fuel and purchased power are properly recorded and credited in its deferred accounts. The Commission shall not allow the electric utility to recover any costs for purchased fuel and purchased power that were the result of any practice or transaction that was undertaken, managed or performed imprudently by the electric utility.~~

~~11.] An electric utility shall adjust its rates on a quarterly basis based on changes in the public utility's recorded costs of purchased fuel or purchased power in the following manner:~~

~~(a) An electric utility shall file written notice with the Commission on or before August 15, 2007, and every quarter thereafter of the quarterly rate adjustment to be made by the electric utility for the following quarter. The first quarterly rate adjustment by the electric utility will take effect on~~

October 1, 2007, and each subsequent quarterly rate adjustment will take effect every quarter thereafter. A quarterly rate adjustment is not subject to the requirements for notice and a hearing pursuant to NRS 703.320 or the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(b) Each electric utility shall provide written notice of each quarterly rate adjustment to its customers by including the written notice with a customer's regular monthly bill. The electric utility shall begin providing such written notice to its customers not later than 30 days after the date on which the electric utility files a written notice with the Commission pursuant to paragraph (a). The written notice that is included with a customer's regular monthly bill:

(1) Must be printed separately on fluorescent-colored paper and must not be attached to the pages of the bill; and

(2) Must include the following:

(I) The total amount of the increase or decrease in the electric utility's revenues from the rate adjustment, stated in dollars and as a percentage;

(II) The amount of the monthly increase or decrease in charges for each class of customer or class of service, stated in dollars and as a percentage;

(III) A statement that customers may send written comments or protests regarding the rate adjustment to the Commission; and

(IV) Any other information required by the Commission.

(c) An electric utility shall file an annual deferred energy accounting adjustment application pursuant to NRS 704.187 with the Commission. The annual deferred energy accounting adjustment application is subject to the requirements for notice and a hearing pursuant to NRS 703.320 and the requirements for a consumer session pursuant to subsection 1 of NRS 704.069.

(d) The proceeding regarding the annual deferred energy accounting adjustment application must include a review of each quarterly rate adjustment and a review of the transactions and recorded costs of purchased fuel and purchased power included in each quarterly rate adjustment and the annual deferred energy accounting adjustment application.

10. If an electric utility files an annual deferred energy accounting adjustment application ~~{to clear its deferred accounts}~~ pursuant to subsection 9 and NRS 704.187 while a general rate application is pending, the electric utility shall:

(a) Submit with its annual deferred energy accounting adjustment application ~~{to clear its deferred accounts}~~ information relating to the cost of service and rate design; and

(b) Supplement its general rate application with the same information, if such information was not submitted with the general rate application.

~~{12.}~~ 11. A utility facility identified in a 3-year plan submitted pursuant to NRS 704.741 and accepted by the Commission for acquisition or

construction pursuant to NRS 704.751 and the regulations adopted pursuant thereto shall be deemed to be a prudent investment. The utility may recover all just and reasonable costs of planning and constructing such a facility.

~~{13.}~~ 12. A PAR carrier may, in accordance with this section and NRS 704.100, file with the Commission a request to approve or change any schedule to provide volume or duration discounts to rates for telecommunication service for an offering made to all or any class of business customers. The Commission may conduct a hearing relating to the request, which must occur within 45 days after the date the request is filed with the Commission. The request and schedule shall be deemed approved if the request and schedule are not disapproved by the Commission within 60 days after the date the Commission receives the request.

~~{14.}~~ 13. As used in this section:

(a) "Electric utility" has the meaning ascribed to it in NRS 704.187.

(b) "Electric utility that primarily serves densely populated counties" ~~has the meaning ascribed to it in NRS 704.187.~~ *means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 400,000 or more than it does from customers located in counties whose population is less than 400,000.*

(c) "Electric utility that primarily serves less densely populated counties" ~~has the meaning ascribed to it in NRS 704.187.~~ *means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.*

(d) "PAR carrier" has the meaning ascribed to it in NRS 704.68942.

Sec. 43. NRS 704.187 is hereby amended to read as follows:

704.187 1. ~~{Except as otherwise provided in section 36 of chapter 16, Statutes of Nevada 2001, beginning on March 1, 2001, an}~~ An electric utility that purchases fuel or power shall use deferred accounting by recording upon its books and records in deferred accounts all increases and decreases in costs for purchased fuel and purchased power that are prudently incurred by the electric utility.

2. An electric utility using deferred accounting shall include in its annual report to the Commission a statement showing, for the period of recovery, the allocated rate of return for each of its operating departments in this State using deferred accounting. If, during the period of recovery, the rate of return for any operating department using deferred accounting is greater than the rate of return authorized by the Commission in the most recently completed rate proceeding for the electric utility, the Commission shall order the electric utility that recovered costs for purchased fuel or purchased power through its rates during the reported period to transfer to the next energy adjustment period that portion of the amount recovered by the electric utility that exceeds the authorized rate of return.

3. Except as otherwise provided in this section, an electric utility using deferred accounting shall file an annual *deferred energy accounting adjustment* application ~~[to clear its deferred accounts based on the following schedule:~~

~~(a) An electric utility that primarily serves less densely populated counties shall file an annual application to clear its deferred accounts on December 1, 2005, and in December] on or before March 1, 2008, and on or before March 1 of each year thereafter . [on a date specified by the Commission.~~

~~(b) An electric utility that primarily serves densely populated counties shall file an annual application to clear its deferred accounts on January 17, 2006, and in January of each year thereafter on a date specified by the Commission.]~~

4. ~~[An electric utility using deferred accounting may file a semiannual application to clear its deferred accounts if the net change in revenues necessary to clear its deferred accounts for the reported period is more than 5 percent of the total revenues generated by the electric utility during that period from its rates for purchased fuel and purchased power most recently authorized by the Commission.~~

~~5.]~~ As used in this section:

(a) ~~["Application to clear its deferred accounts"]~~ "Annual deferred energy accounting adjustment application" means an application filed by an electric utility pursuant to this section and subsection 9 of NRS 704.110.

(b) "Costs for purchased fuel and purchased power" means all costs which are prudently incurred by an electric utility and which are required to purchase fuel, to purchase capacity and to purchase energy. The term does not include any costs that the Commission determines are not recoverable pursuant to subsection ~~[10]~~ 9 of NRS 704.110.

(c) "Electric utility" means any public utility or successor in interest that:

(1) Is in the business of providing electric service to customers;

(2) Holds a certificate of public convenience and necessity issued or transferred pursuant to this chapter; and

(3) In the most recently completed calendar year or in any other calendar year within the 7 calendar years immediately preceding the most recently completed calendar year, had a gross operating revenue of \$250,000,000 or more in this State.

↪ The term does not include a cooperative association, nonprofit corporation, nonprofit association or provider of electric service which is declared to be a public utility pursuant to NRS 704.673 and which provides service only to its members.

~~[(d) "Electric utility that primarily serves densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is 400,000 or more than it~~

~~does from customers located in counties whose population is less than 400,000.~~

~~(e) "Electric utility that primarily serves less densely populated counties" means an electric utility that, with regard to the provision of electric service, derives more of its annual gross operating revenue in this State from customers located in counties whose population is less than 400,000 than it does from customers located in counties whose population is 400,000 or more.]~~

Sec. 44. NRS 704.771 is hereby amended to read as follows:

704.771 1. "Net metering system" means a facility or energy system for the generation of electricity that:

~~[1.]~~ (a) Uses renewable energy as its primary source of energy to generate electricity;

~~[2.]~~ (b) Has a generating capacity of not more than ~~[150 kilowatts;~~

~~3.]~~ 1 megawatt;

(c) Is located on the customer-generator's premises;

~~[4.]~~ (d) Operates in parallel with the utility's transmission and distribution facilities; and

~~[5.]~~ (e) Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

2. *The term does not include a facility or energy system for the generation of electricity which has a generating capacity that exceeds the greater of:*

(a) The limit on the demand that the class of customer of the customer-generator may place on the system of the utility; or

(b) One hundred fifty percent of the peak demand of the customer.

Sec. 45. NRS 704.773 is hereby amended to read as follows:

704.773 1. A utility shall offer net metering, as set forth in NRS 704.775, to the customer-generators operating within its service area until the cumulative capacity of all such net metering systems is equal to 1 percent of the utility's peak capacity.

2. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of not more than ~~[30]~~ 100 kilowatts, the utility:

(a) Shall offer to make available to the customer-generator an energy meter that is capable of registering the flow of electricity in two directions.

(b) May, at its own expense and with the written consent of the customer-generator, install one or more additional meters to monitor the flow of electricity in each direction.

(c) Shall not charge a customer-generator any fee or charge that would increase the customer-generator's minimum monthly charge to an amount greater than that of other customers of the utility in the same rate class as the customer-generator.

3. If the net metering system of a customer-generator who accepts the offer of a utility for net metering has a capacity of more than ~~{30}~~ 100 kilowatts, the utility may:

(a) Require the customer-generator to install at its own cost ~~{an}~~ :

(1) *An energy meter that is capable of measuring generation output and customer load ~~{-}~~ ; and*

(2) *Any upgrades to the system of the utility that are required to make the net metering system compatible with the system of the utility.*

(b) ~~{Charge}~~ *Except as otherwise provided in paragraph (c), charge the customer-generator any applicable fee or charge charged to other customers of the utility in the same rate class as the customer-generator, including, without limitation, customer, demand and facility charges.*

(c) *Not charge the customer-generator any standby charge.*

➡ *At the time of installation or upgrade of any portion of a net metering system, the utility must require or allow a customer-generator governed by this subsection to pay the entire cost of the installation or upgrade of the portion of the net metering system.*

4. *The Commission shall adopt regulations prescribing the form and substance for a net metering tariff and a standard net metering contract. The regulations must include, without limitation:*

(a) *The particular provisions, limitations and responsibilities of a customer-generator which must be included in a net metering tariff with regard to:*

(1) *Metering equipment;*

(2) *Net energy measurement and billing; and*

(3) *Interconnection,*

➡ *based on the allowable size of the net metering system.*

(b) *The particular provisions, limitations and responsibilities of a customer-generator and the utility which must be included in a standard net metering contract.*

(c) *A timeline for processing applications and contracts for net metering applicants.*

(d) *Any other provisions the Commission finds necessary to carry out the provisions of NRS 704.766 to 704.775, inclusive.*

Sec. 46. NRS 704.775 is hereby amended to read as follows:

704.775 1. The billing period for net metering must be a monthly period.

2. ~~{If a customer generator's net metering system has a capacity of not more than 30 kilowatts, the}~~ *The net energy measurement must be calculated in the following manner:*

(a) *The utility shall measure, in kilowatt hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.*

(b) *If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during*

the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for electricity provided to the other during the billing period.

(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.

(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The *value of the excess electricity* ~~[which is fed back to the utility shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.~~

~~3.—If a customer generator's net metering system has a capacity of more than 30 kilowatts, the net energy measurement must be calculated in the following manner:~~

~~(a) The utility shall:~~

~~(1) Measure, in kilowatt hours, the amount of electricity supplied by the utility to the customer generator during the billing period and calculate its value using the tariff that would be applicable if the customer generator did not use a net metering system; and~~

~~(2) Measure, in kilowatt hours, the amount of electricity generated by the customer generator which is fed back to the utility during the billing period and calculate its value at a rate that is consistent with the rate used to calculate the value of the electricity supplied by the utility.~~

~~(b) If the value of electricity supplied by the utility exceeds the value of the electricity generated by the customer generator which is fed back to the utility during the billing period, the customer generator must be billed for the net value of the electricity supplied by the utility.~~

~~(e) If the value of the electricity generated by the customer generator which is fed back to the utility exceeds the value of the electricity supplied by the utility during the billing period:~~

~~(1) Neither the utility nor the customer generator is entitled to compensation for the value of the electricity provided to the other during the billing period.~~

~~(2) The value of the excess electricity:~~

~~(I) Must not be shown as a credit on the customer generator's bill for that billing period but must be reflected as a credit that is carried forward to offset the value of the electricity supplied by the utility during a subsequent billing period. At the discretion of the utility, the credit may be in a dollar amount or in kilowatt hours. If the credit is reflected as excess electricity and the customer generator is billed for electricity pursuant to a time of use rate schedule, the excess electricity carried forward must be added to the same time of use period as the time of use period in which it was generated unless the subsequent billing period lacks a corresponding time of use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time of use periods. Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer generator is not entitled to receive compensation for any excess electricity that remains if the net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities, the customer generator ceases to be a customer of the utility at the premises served by the net metering system or the customer generator transfers the net metering system to another person.~~

~~(II) Does not reduce any other fee or charge imposed by the utility.~~

~~(3) The excess electricity which is fed back to the utility] must not be used to reduce any other fee or charge imposed by the utility.~~

3. *If the cost of purchasing and installing a net metering system was paid for:*

(a) In whole or in part by a utility, the electricity generated by the net metering system shall be deemed to be electricity that the utility generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard pursuant to NRS 704.7801 to 704.7828, inclusive.

(b) Entirely by a customer-generator, the Commission shall issue to the customer-generator portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the electricity generated by the net metering system.

4. A bill for electrical service is due at the time established pursuant to the terms of the contract between the utility and the customer-generator.

Sec. 47. NRS 704.7802 is hereby amended to read as follows:

704.7802 1. "Energy efficiency measure" means any measure designed, intended or used to improve energy efficiency if:

(a) The measure is installed on or after January 1, 2005, at the service location of a retail customer of a provider of electric service in this State;

(b) The measure reduces the consumption of energy by the retail customer; and

(c) The costs of the acquisition or installation of the measure are directly reimbursed, in whole or in part, by the provider of electric service.

2. The term does not include ~~the~~:

~~(a) Any~~ any demand response measure or load limiting measure that shifts the consumption of energy by a retail customer from one period to another period.

~~[(b) Any solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity or any fossil fuel.]~~

Sec. 48. NRS 704.7821 is hereby amended to read as follows:

704.7821 1. For each provider of electric service, the Commission shall establish a portfolio standard. The portfolio standard must require each provider to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:

(a) For calendar years 2005 and 2006, not less than 6 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(b) For calendar years 2007 and 2008, not less than 9 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(c) For calendar years 2009 and 2010, not less than 12 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(d) For calendar years 2011 and 2012, not less than 15 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(e) For calendar years 2013 and 2014, not less than 18 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(f) For calendar year 2015 and for each calendar year thereafter, not less than 20 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

2. In addition to the requirements set forth in subsection 1, the portfolio standard for each provider must require that:

(a) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not less than ~~5~~ 6 percent of that amount must be generated or acquired from solar renewable energy systems.

(b) Of the total amount of electricity that the provider is required to generate, acquire or save from portfolio energy systems or efficiency measures during each calendar year, not more than 25 percent of that amount may be based on energy efficiency measures. If the provider intends to use energy efficiency measures to comply with its portfolio standard during any calendar year, of the total amount of electricity saved from energy efficiency

measures for which the provider seeks to obtain portfolio energy credits pursuant to this paragraph, at least 50 percent of that amount must be saved from energy efficiency measures installed at service locations of residential customers of the provider, unless a different percentage is approved by the Commission.

(c) If the provider acquires or saves electricity from a portfolio energy system or efficiency measure pursuant to a renewable energy contract or energy efficiency contract with another party:

(1) The term of the contract must be not less than 10 years, unless the other party agrees to a contract with a shorter term; and

(2) The terms and conditions of the contract must be just and reasonable, as determined by the Commission. If the provider is a utility provider and the Commission approves the terms and conditions of the contract between the utility provider and the other party, the contract and its terms and conditions shall be deemed to be a prudent investment and the utility provider may recover all just and reasonable costs associated with the contract.

3. If, for the benefit of one or more of its retail customers in this State, the provider has directly reimbursed, in whole or in part, the costs of the acquisition or installation of a solar energy system which qualifies as a renewable energy system and which reduces the consumption of electricity, the total reduction in the consumption of electricity during each calendar year that results from the solar energy system shall be deemed to be electricity that the provider generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

4. The Commission shall adopt regulations that establish a system of portfolio energy credits that may be used by a provider to comply with its portfolio standard.

5. Except as otherwise provided in subsection 6, each provider shall comply with its portfolio standard during each calendar year.

6. If, for any calendar year, a provider is unable to comply with its portfolio standard through the generation of electricity from its own renewable energy systems or, if applicable, through the use of portfolio energy credits, the provider shall take actions to acquire or save electricity pursuant to one or more renewable energy contracts or energy efficiency contracts. If the Commission determines that, for a calendar year, there is not or will not be a sufficient supply of electricity or a sufficient amount of energy savings made available to the provider pursuant to renewable energy contracts and energy efficiency contracts with just and reasonable terms and conditions, the Commission shall exempt the provider, for that calendar year, from the remaining requirements of its portfolio standard or from any appropriate portion thereof, as determined by the Commission.

7. The Commission shall adopt regulations that establish:

(a) Standards for the determination of just and reasonable terms and conditions for the renewable energy contracts and energy efficiency contracts that a provider must enter into to comply with its portfolio standard.

(b) Methods to classify the financial impact of each long-term renewable energy contract and energy efficiency contract as an additional imputed debt of a utility provider. The regulations must allow the utility provider to propose an amount to be added to the cost of the contract, at the time the contract is approved by the Commission, equal to a compensating component in the capital structure of the utility provider. In evaluating any proposal made by a utility provider pursuant to this paragraph, the Commission shall consider the effect that the proposal will have on the rates paid by the retail customers of the utility provider.

8. As used in this section:

(a) "Energy efficiency contract" means a contract to attain energy savings from one or more energy efficiency measures owned, operated or controlled by other parties.

(b) "Renewable energy contract" means a contract to acquire electricity from one or more renewable energy systems owned, operated or controlled by other parties.

(c) "Terms and conditions" includes, without limitation, the price that a provider must pay to acquire electricity pursuant to a renewable energy contract or to attain energy savings pursuant to an energy efficiency contract.

Sec. 49. NRS 704.860 is hereby amended to read as follows:

704.860 "Utility facility" means:

1. Electric generating plants and their associated facilities, except:

(a) Electric generating plants and their associated facilities that are or will be located entirely within the boundaries of a county whose population is 100,000 or more; or

(b) Electric generating plants and their associated facilities which use or will use renewable energy, as defined in NRS 704.7811, as their primary source of energy to generate electricity and which have or will have a generating capacity of not more than ~~150 kilowatts,~~ 1 megawatt, including, without limitation, a net metering system, as defined in NRS 704.771.

↪ As used in this subsection, "associated facilities" includes, without limitation, any facilities for the storage, transmission or treatment of water, including, without limitation, facilities to supply water or for the treatment or disposal of wastewater, which support or service an electric generating plant.

2. Electric transmission lines and transmission substations that:

(a) Are designed to operate at 200 kilovolts or more;

(b) Are not required by local ordinance to be placed underground; and

(c) Are constructed outside any incorporated city.

3. Gas transmission lines, storage plants, compressor stations and their associated facilities when constructed outside:

(a) Any incorporated city; and

(b) Any county whose population is 100,000 or more.

4. Water storage, transmission and treatment facilities, other than facilities for the storage, transmission or treatment of water from mining operations.

5. Sewer transmission and treatment facilities.

Sec. 50. Chapter 113 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *Except as otherwise provided in subsection 3, the seller shall have the energy consumption of the residential property evaluated pursuant to the program established in section 31 of this act.*

2. *Except as otherwise provided in subsection 4, before closing a transaction for the conveyance of residential property, the seller shall serve the purchaser with the completed evaluation required pursuant to subsection 1, if any, on a form to be provided by the Director of the Office of Energy, as prescribed in regulations adopted pursuant to section 31 of this act.*

3. *Subsection 1 does not apply to a sale or intended sale of residential property:*

(a) *By foreclosure pursuant to chapter 107 of NRS.*

(b) *Between any co-owners of the property, spouses or persons related within the third degree of consanguinity.*

(c) *By a person who takes temporary possession or control of or title to the property solely to facilitate the sale of the property on behalf of a person who relocates to another county, state or country before title to the property is transferred to a purchaser.*

(d) *If the seller and purchaser agree to waive the requirements of subsection 1.*

4. *If an evaluation of a residential property was completed not more than 5 years before the seller and purchaser entered into the agreement to purchase the residential property, the seller may serve the purchaser with that evaluation.*

Sec. 51. NRS 228.360 is hereby amended to read as follows:

228.360 The Consumer's Advocate:

1. Shall intervene in and represent the public interest in:

(a) All proceedings conducted pursuant to NRS 704.7561 to 704.7595, inclusive; and

(b) All proceedings conducted pursuant to NRS 704.061 to 704.110, inclusive, in which an electric utility has filed a general rate application or an annual deferred energy accounting adjustment application . ~~to clear its deferred accounts.~~

2. May, with respect to all public utilities except railroads and cooperative utilities, and except as otherwise provided in NRS 228.380:

(a) Conduct or contract for studies, surveys, research or expert testimony relating to matters affecting the public interest or the interests of utility customers.

(b) Examine any books, accounts, minutes, records or other papers or property of any public utility subject to the regulatory authority of the Public Utilities Commission of Nevada in the same manner and to the same extent as authorized by law for members of the Public Utilities Commission of Nevada and its staff.

(c) Except as otherwise provided in subsection 1, petition for, request, initiate, appear or intervene in any proceeding concerning rates, charges, tariffs, modifications of service or any related matter before the Public Utilities Commission of Nevada or any court, regulatory body, board, commission or agency having jurisdiction over any matter which the Consumer's Advocate may bring before or has brought before the Public Utilities Commission of Nevada or in which the public interest or the interests of any particular class of utility customers are involved. The Consumer's Advocate may represent the public interest or the interests of any particular class of utility customers in any such proceeding, and he is a real party in interest in the proceeding.

3. As used in this section, "electric utility" has the meaning ascribed to it in NRS 704.187.

Sec. 52. ~~[Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 53 and 54 of this act.] (Deleted by amendment.)~~

Sec. 53. (Deleted by amendment.)

Sec. 54. ~~[Each public body that solicits a bid for the construction, repair or reconstruction of any public work which is a public building of at least 10,000 square feet and to which paragraph (a) of subsection 1 of NRS 338.1385 or paragraph (a) of subsection 1 of NRS 338.143 applies must provide a detailed analysis of the cost of operating and maintaining the building for its expected useful life.] (Deleted by amendment.)~~

Sec. 55. ~~[NRS 338.187 is hereby amended to read as follows:
338.187 1. Except as otherwise provided in subsection 2, each] Each public work which is the construction of a new occupied public building [whose construction will be sponsored or financed by this State must, when completed,] of at least 10,000 square feet must meet the energy and water conservation requirements [to be certified at or meet the equivalent of the base] of at least:~~

~~(a) The silver level [or higher in accordance with] of the Leadership in Energy and Environmental Design Green Building Rating System; [,] or [an equivalent standard,]~~

~~(b) An equivalent level of an equivalent rating system, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.~~

~~2. During each biennium, at least two occupied public buildings whose construction will be sponsored or financed by this State must be designated as demonstration projects and must, when completed, meet the requirements to be certified at or meet the equivalent of the silver level or higher in accordance with the Leadership in Energy and Environmental Design Green~~

~~Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to NRS 701.217 if:~~

~~(a) The Director of the Office of Energy, in consultation with the State Board of Examiners and the State Public Works Board, has determined that it is feasible for the buildings to meet such requirements and standards and that it is a cost effective investment to do so; and~~

~~(b) The agency or agencies that will occupy the buildings have agreed to allow the buildings to be designated as demonstration projects pursuant to this subsection.~~

~~3. Each occupied public building whose construction is sponsored or financed by a local government may meet the requirements to be certified at or meet the equivalent of the base level or higher in accordance with the Leadership in Energy and Environmental Design Green Building Rating System, or an equivalent standard, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.~~

~~4. An applicable public body may request a hearing to appeal a ruling by the Director of the Office of Energy that a public work of the public body does not meet the requirements of subsection 1.~~

~~3. The Director of the Office of Energy shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations relating to any energy and water conservation requirements of an equivalent rating system pursuant to subsection 1 and a hearing pursuant to subsection 2.~~

~~4. As used in this section, "occupied public building" means a climate controlled public building used [primarily as an office space or work area for persons employed] by this State or a local government. [The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.]] (Deleted by amendment.)~~

Sec. 56. ~~[NRS 338.190 is hereby amended to read as follows:~~

~~338.190 1. Before it begins to construct or renovate any public work which is an occupied public building [which is larger than 20,000 square feet, each agency of the State or a political subdivision, district, authority, board or public corporation of the State], a public body shall obtain a detailed analysis of the cost of operating and maintaining the building for its expected useful life.~~

~~2. The analysis must:~~

~~(a) Estimate the cost to construct or renovate the occupied public building and the cost to operate and maintain the occupied public building; and~~

~~(b) Identify measures, including, without limitation, for the:~~

~~(1) Conservation of water;~~

~~(2) Conservation of energy and energy efficiency that will generate cost savings within 10 years that are equal to or greater than the cost of implementation; and~~

~~(3) Use of types of energy which are alternatives to fossil fuels, such as active and passive applications of solar energy, wind and geothermal energy;~~

~~which can be included in the occupied public building in its construction or renovation.~~

~~3. The [agency of government] public body which proposes to construct or renovate the occupied public building must consider the results of the analysis required by this section in deciding upon the type of construction or renovation and the components and systems which will be included in the occupied public building. The [agency of government] public body shall consider the use of types of energy which are alternatives to fossil fuels and any other energy conservation measures identified in the analysis into the design of the occupied public building if it is determined to be in the best interest of the [State.] public body.~~

~~4. The [agency of government] public body may select, through the bidding process, a contractor to conduct the analysis required pursuant to this section. If a contractor is selected to conduct the analysis, any contract for the purchase, lease or rental of cost saving measures must provide that all payments, other than any obligations that become due if the contract is terminated before the contract expires, be made from the cost savings.~~

~~5. As used in this section, "occupied public building" means a climate controlled public building used [primarily as an office space or work area for persons employed] by an agency of the State or a political subdivision, district, authority, board or public corporation of the State. [The term does not include a public building used primarily as a storage facility or warehouse or for similar purposes.]} (Deleted by amendment.)~~

~~Sec. 57. [Chapter 361 of NRS is hereby amended by adding thereto the provisions set forth as sections 58 and 59 of this act.] (Deleted by amendment.)~~

~~Sec. 58. *1. The county assessors shall grant a partial abatement from the ad valorem taxes levied in a county on a single family residence that meets the energy and water conservation requirements of at least:*~~

~~*(a) The silver level of the Leadership in Energy and Environmental Design Green Building Rating System; or*~~

~~*(b) An equivalent level of an equivalent rating system, as adopted by the Director of the Office of Energy pursuant to NRS 701.217.*~~

~~*2. The partial abatement:*~~

~~*(a) Must be for a duration of not more than 10 years;*~~

~~*(b) Must not be applied to the portion of the rate that is attributable to the school district; and*~~

~~*(c) Must not exceed 50 percent of the taxes on real property payable each year pursuant to this chapter.*~~

~~*3. The Nevada Tax Commission shall establish by regulation the qualifications and methods to determine eligibility for the abatement, the duration of the abatement, the size of the parcel for which the abatement may be granted and the amount of the abatement.*~~

~~*4. The Nevada Tax Commission shall immediately forward a certificate of eligibility for the abatement to:*~~

~~(a) The Department;~~

~~(b) The county treasurer; and~~

~~(c) The county assessor.~~

~~5. As used in this section:~~

~~(a) "Single family residence" means a parcel or other unit of real property or unit of personal property which is intended or designed to be occupied by one family with facilities for living, sleeping, cooking and eating.~~

~~(b) "Unit of personal property" includes, without limitation, any:~~

~~(1) Mobile or manufactured home, whether or not the owner thereof also owns the real property upon which it is located; or~~

~~(2) Taxable unit of a condominium, common interest community, planned unit development or similar property;~~

~~if classified as personal property for the purposes of this chapter.~~

~~(c) "Unit of real property" includes, without limitation, any taxable unit of a condominium, common interest community, planned unit development or similar property, if classified as real property for the purposes of this chapter. (Deleted by amendment.)~~

~~Sec. 59. {1. Except as otherwise provided in subsection 2, any value added by a renewable energy system located on real property must be excluded from the assessed value of the real property.~~

~~2. Value added by a renewable energy system must not be excluded from the assessed value of real property during any period in which the person that owns the real property is receiving another abatement or exemption from the taxes imposed by this chapter.~~

~~3. As used in this section, "renewable energy system" has the meaning ascribed to it in NRS 704.7815. (Deleted by amendment.)~~

Sec. 60. (Deleted by amendment.)

Sec. 61. (Deleted by amendment.)

Sec. 62. Sections 62 to 86, inclusive, of this act may be cited as the Wind Energy Systems Demonstration Program Act.

Sec. 63. As used in sections 62 to 86, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 64 to 78, inclusive, of this act have the meaning ascribed to them in those sections.

Sec. 64. "Agricultural property" means any real property employed for an agricultural use as defined in NRS 361A.030.

Sec. 65. "Applicant" means a person who is applying to participate in the Wind Demonstration Program.

Sec. 66. "Category" means one of the categories of participation in the Wind Demonstration Program as set forth in section 79 of this act.

Sec. 67. "Commission" means the Public Utilities Commission of Nevada.

Sec. 68. "Committee" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.

Sec. 69. "Institution of higher education" means:

1. A university, college or community college which is privately owned or which is part of the Nevada System of Higher Education; or

2. A postsecondary educational institution, as defined in NRS 394.099, or any other institution of higher education.

Sec. 70. "Participant" means a person who has been selected by the Committee pursuant to section 83 of this act to participate in the Wind Demonstration Program.

Sec. 71. "Person" includes, without limitation, a governmental entity.

Sec. 72. "Program year" means the period of July 1 to June 30 of the following year.

Sec. 73. "Public property" means any real property, building or facilities owned, leased or occupied by:

1. A department, agency or instrumentality of the State or any of its political subdivisions which is used for the transaction of public or quasi-public business; or

2. A nonprofit organization that is recognized as exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), as amended, or a corporation for public benefit as defined in NRS 82.021.

Sec. 74. "School property" means any real property, building or facilities owned, leased or occupied by:

1. A public school as defined in NRS 385.007;

2. A private school as defined in NRS 394.103; or

3. An institution of higher education.

Sec. 75. "Small business" means a business conducted for profit which employs 500 or fewer full-time or part-time employees.

Sec. 76. "Utility" means a public utility that supplies electricity in this State.

Sec. 77. "Wind Demonstration Program" or "Program" means the Wind Energy Systems Demonstration Program created by section 79 of this act.

Sec. 78. "Wind energy system" means a facility or energy system for the generation of electricity that uses wind energy to generate electricity.

Sec. 79. 1. The Wind Energy Systems Demonstration Program is hereby created.

2. The Program must have four categories as follows:

(a) School property;

(b) Other public property;

(c) Private residential property and small business property; and

(d) Agricultural property.

3. To be eligible to participate in the Program, a person must:

(a) Meet the qualifications established by the Commission pursuant to section 80 of this act;

(b) Submit an application to a utility and be selected by the Committee for inclusion in the Program pursuant to sections 82 and 83 of this act;

(c) When installing the wind energy system, use an installer who has been issued a classification C-2 license with the appropriate subclassification by the State Contractors' Board pursuant to the regulations adopted by the Board; and

(d) If the person will be participating in the Program in the category of school property or other public property, provide for the public display of the wind energy system, including, without limitation, providing for public demonstrations of the wind energy system and for hands-on experience of the wind energy system by the public.

Sec. 80. The Commission shall adopt regulations necessary to carry out the provisions of the Wind Energy Systems Demonstration Program Act, including, without limitation, regulations that establish:

1. The qualifications and requirements an applicant must meet to be eligible to participate in the Program in each particular category of:

- (a) School property;
- (b) Other public property;
- (c) Private residential property and small business property; and
- (d) Agricultural property.

2. The type of incentives available to participants in the Program and the level or amount of those incentives.

3. The requirements for a utility's annual plan for carrying out and administering the Program. A utility's annual plan must include, without limitation:

- (a) A detailed plan for advertising the Program;
- (b) A detailed budget and schedule for carrying out and administering the Program;
- (c) A detailed account of administrative processes and forms that will be used to carry out and administer the Program, including, without limitation, a description of the application process and copies of all applications and any other forms that are necessary to apply for and participate in the Program;
- (d) A detailed account of the procedures that will be used for inspection and verification of a participant's wind energy system and compliance with the Program;
- (e) A detailed account of training and educational activities that will be used to carry out and administer the Program; and
- (f) Any other information required by the Commission.

Sec. 81. 1. Each utility shall carry out and administer the Wind Demonstration Program within its service area in accordance with its annual plan as approved by the Commission pursuant to section 82 of this act.

2. A utility may recover its reasonable and prudent costs, including, without limitation, incentives that are associated with carrying out and administering the Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 82. 1. On or before February 1, 2008, and on or before February 1 of each year thereafter, each utility shall file with the Commission its annual plan for carrying out and administering the Wind Demonstration Program within its service area for the following program year.

2. On or before July 1, 2008, and on or before July 1 of each year thereafter, the Commission shall:

(a) Review the annual plan filed by each utility for compliance with the requirements established by regulation; and

(b) Approve the annual plan with such modifications and upon such terms and conditions as the Commission finds necessary or appropriate to facilitate the Program.

3. On or before November 1, 2008, and on or before November 1 of each year thereafter, each utility shall submit to the Committee the utility's recommendations as to which applications received by the utility should be approved for participation in the Program. The Committee shall review the applications to ensure that each applicant meets the qualifications and requirements to be eligible to participate in the Program.

4. Except as otherwise provided in section 83 of this act, the Committee may approve, from among the applications recommended by each utility, wind energy systems totaling:

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

(1) 500 kilowatts of capacity for school property;

(2) 500 kilowatts of capacity for other public property;

(3) 700 kilowatts of capacity for private residential property and small business property; and

(4) 700 kilowatts of capacity for agricultural property.

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

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

(c) For the program year beginning July 1, 2010:

(1) An additional 250 kilowatts of capacity for school property;

(2) An additional 250 kilowatts of capacity for other public property;

(3) An additional 350 kilowatts of capacity for private residential property and small business property; and

(4) An additional 350 kilowatts of capacity for agricultural property.

Sec. 83. 1. Based on the applications submitted by each utility for a program year, the Committee shall:

(a) Within the limits of the capacity allocated to each category, select applicants to be participants in the Wind Demonstration Program and place those applicants on a list of participants; and

(b) Select applicants to be placed on a prioritized waiting list to become participants in the Program if any capacity within a category becomes available.

2. Not later than 30 days after the date on which the Committee selects an applicant to be on the list of participants or the prioritized waiting list, the utility which submitted the application to the Committee on behalf of the applicant shall provide written notice of the selection to the applicant.

3. If the capacity allocated to any category for a program year is not fully subscribed by participants in that category, the Committee may, in any combination it deems appropriate:

(a) Allow a utility to submit additional applications from applicants who want to participate in that category; or

(b) Reallocate any of the unused capacity in that category to any of the other categories.

4. At any time after submitting an application to participate in the Program to a utility, an applicant may energize his wind energy system if the wind energy system meets all applicable building codes and all applicable requirements of the utility as approved by the Commission. An applicant who energizes his wind energy system under such circumstances remains eligible to participate in the Program, and the energizing of the wind energy system does not alter the applicant's status on the list of participants or the prioritized waiting list.

Sec. 84. 1. Except as otherwise provided in this section, if the Committee determines that a participant has not complied with the requirements for participation in the Wind Demonstration Program, the Committee shall, after notice and an opportunity for a hearing, withdraw the participant from the Program.

2. The Committee may, without notice or an opportunity for a hearing, withdraw from the Program:

(a) A participant in the category of private residential property and small business property or a participant in the category of agricultural property if the participant does not complete the installation of a wind energy system within 12 months after the date the participant receives written notice of his selection to participate in the Program.

(b) A participant in the category of school property or a participant in the category of other public property if the participant does not complete the installation of a wind energy system within 30 months after the date the participant receives written notice of his selection to participate in the Program.

3. A participant who is withdrawn from the Program pursuant to subsection 2 forfeits any incentives.

Sec. 85. 1. After a participant installs a wind energy system included in the Wind Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted

by the Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the wind energy system.

2. All portfolio energy credits issued for a wind energy system installed pursuant to the Wind Demonstration Program must be assigned to and become the property of the utility administering the Program.

Sec. 86. If a wind energy system used by a participant in the Wind Demonstration Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 87. Sections 87 to 106, inclusive, of this act may be cited as the Waterpower Energy Systems Demonstration Program Act.

Sec. 88. As used in sections 87 to 106, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 89 to 98, inclusive, of this act have the meanings ascribed to them in those sections.

Sec. 89. "Applicant" means a person who is applying to participate in the Waterpower Demonstration Program.

Sec. 90. "Commission" means the Public Utilities Commission of Nevada.

Sec. 91. "Committee" means the Task Force for Renewable Energy and Energy Conservation created by NRS 701.350.

Sec. 92. "Participant" means a person who has been selected by the Commission to participate in the Waterpower Demonstration Program.

Sec. 93. "Person" includes, without limitation, a public entity.

Sec. 94. "Program year" means the period of July 1 to June 30 of the following year.

Sec. 95. "Utility" means a public utility that supplies electricity in this State.

Sec. 96. "Waterpower" has the meaning ascribed to it in subsection 3 of NRS 704.7811.

Sec. 97. "Waterpower energy system" means a facility or energy system for the generation of electricity that uses waterpower to generate electricity.

Sec. 98. "Waterpower Demonstration Program" or "Program" means the Waterpower Energy Systems Demonstration Program created by section 99 of this act.

Sec. 99. 1. The Waterpower Energy Systems Demonstration Program is hereby created.

2. The Waterpower Demonstration Program is created for agricultural uses.

3. To be eligible to participate in the Waterpower Demonstration Program, a person must meet the qualifications established pursuant to subsection 4 and apply to and be selected by the Committee for inclusion in the Waterpower Demonstration Program.

4. The Commission shall adopt regulations providing for the qualifications an applicant must meet to qualify to participate in the Waterpower Demonstration Program.

Sec. 100. The Committee is responsible for the administration and delivery of the Waterpower Demonstration Program as approved by the Commission.

Sec. 101. The Commission shall adopt regulations that establish:

1. The level, amount and type of incentives available for participants in the Waterpower Demonstration Program.

2. The requirements for an annual plan for the administration and delivery of the Waterpower Demonstration Program. The requirements for an annual plan must include, without limitation:

- (a) An advertising plan;
- (b) A detailed budget;
- (c) A schedule;
- (d) Administrative processes, including, without limitation, a copy of the application and process for accepting applications;
- (e) An inspection and verification process;
- (f) Proposed training and educational activities; and
- (g) Any other information required by the Commission.

Sec. 102. 1. On or before February 21, 2008, and on or before February 1 of each subsequent year, each utility shall file with the Commission for approval an annual plan for the administration and delivery of the Waterpower Demonstration Program for the program year beginning July 1, 2008, and each subsequent year thereafter.

2. On or before July 1, 2008, and on or before each July 1 of each subsequent year, the Commission shall review the annual plan for compliance with the requirements set forth by regulation of the Commission.

3. On or before November 1, 2008, and on or before November 1 of each subsequent year, each utility shall submit to the Committee a recommendation of which applications received should be accepted into the program. The Committee shall review the applications to ensure that the applicant meets the requirements adopted pursuant to subsection 4 of section 99 of this act.

4. The Committee may approve, from among the applications recommended by each utility, waterpower energy systems totaling:

- (a) For the program year beginning July 1, 2008, 200 kilowatts of capacity;
- (b) For the program year beginning July 1, 2009, an additional 100 kilowatts of capacity; and
- (c) For the program year beginning July 1, 2010, an additional 100 kilowatts of capacity.

Sec. 103. Each utility may recover its reasonable and prudent costs, including, without limitation, incentives that are associated with carrying out and administering the Waterpower Demonstration Program within its service area by seeking recovery of those costs in an appropriate proceeding before the Commission pursuant to NRS 704.110.

Sec. 104. 1. After a participant installs a waterpower energy system included in the Waterpower Demonstration Program, the Commission shall issue portfolio energy credits for use within the system of portfolio energy credits adopted by the Commission pursuant to NRS 704.7821 equal to the actual or estimated kilowatt-hour production of the waterpower energy system of the participant.

2. All portfolio energy credits issued for a waterpower energy system installed pursuant to the Waterpower Demonstration Program are assigned to and become the property of the utility administering the Program.

Sec. 105. If the waterpower energy system used by a participant in the Waterpower Demonstration Program meets the requirements of NRS 704.766 to 704.775, inclusive, the participant is entitled to participate in net metering pursuant to the provisions of NRS 704.766 to 704.775, inclusive.

Sec. 106. If the Commission determines that a participant did not comply with the requirements for participation in the Waterpower Demonstration Program, the Commission shall, after notice and an opportunity for a hearing, withdraw the participant from the Waterpower Demonstration Program. Notice or a hearing is not required for dropping an applicant from the Program who fails to meet any completion time frames specified for the Program.

Sec. 107. ~~[Section 9 of chapter 335, Statutes of Nevada 2001, as last amended by section 5 of chapter 467, Statutes of Nevada 2003, at page 2927, is hereby amended to read as follows:~~

~~Sec. 9. 1. This section and sections 1, 2 and 4 to 8, inclusive, of this act become effective on July 1, 2001.~~

~~2. Sections 2 and] Section 5 of this act [expire] expires by limitation on June 30, 2009.~~

~~3. Section 3 of this act becomes effective on July 1, 2009.~~

~~4.] Section 2 of this act becomes effective at 12:01 a.m. on July 1, 2001.] (Deleted by amendment.)~~

Sec. 108. Section 24 of the Solar Energy Systems Demonstration Program Act, being chapter 331, Statutes of Nevada 2003, as amended by chapter 2, Statutes of Nevada 2005, 22nd Special Session, at page 90, is hereby amended to read as follows:

Sec. 24. The provisions of sections 4 to 21, inclusive, of this act expire by limitation on June 30, ~~[2010]~~ 2007.

Sec. 109. ~~[Section 7 of chapter 467, Statutes of Nevada 2003, at page 2927, is hereby amended to read as follows:~~

~~Sec. 7. 1. This act becomes effective on July 1, 2003.~~

~~2. Sections 2 and] Section 4 of this act [expire] expires by limitation on June 30, 2009.] (Deleted by amendment.)~~

Sec. 110. ~~[Section 5 of chapter 389, Statutes of Nevada 2005, at page 1516, is hereby amended to read as follows:~~

~~Sec. 5. 1.] This [section and sections 1, 2 and 4 of this] act [become] becomes effective on July 1, 2005.~~

~~[2. Section 2 of this act expires by limitation on June 30, 2009.~~

~~3. Section 3 of this act becomes effective on July 1, 2009.]]~~

(Deleted by amendment.)

~~Sec. 111. [Section 3 of chapter 335, Statutes of Nevada 2001, as amended by section 40 of chapter 2, Statutes of Nevada 2003, at page 56, and section 3 of chapter 389, Statutes of Nevada 2005, at page 1515, are hereby repealed.] (Deleted by amendment.)~~

Sec. 112. With regard to solar energy systems, it is the intent of the Legislature to substitute the provisions of this section, sections 1 to 29, inclusive, 44 to 49, inclusive, and 108 of this act in a continuing way for the provisions of the Solar Energy Systems Demonstration Program Act, being chapter 331, Statutes of Nevada 2003, as last amended by chapter 2, Statutes of Nevada 2005, 22nd Special Session, except that if there is a conflict between the provisions of this section, sections 1 to 29, inclusive, 44 to 49, inclusive, and 108 of this act, and the provisions of the Solar Energy Systems Demonstration Program Act, the provisions of this section, sections 1 to 29, inclusive, 44 to 49, inclusive, and 108 of this act control.

Sec. 113. 1. This act becomes effective:

(a) Upon passage and approval for the purposes of adopting regulations and taking such other actions as are necessary to carry out the provisions of this act; and

(b) For all other purposes besides those described in paragraph (a):

(1) For this section and sections 30, 32, 36 to 46, inclusive, 49, 51 to 61, inclusive, 107, 109, 110 and 111 of this act, upon passage and approval.

(2) For sections 1 to 29, inclusive, 47, 108, and 112 of this act, on July 1, 2007.

(3) For sections 62 to 106, inclusive, of this act, on October 1, 2007.

(4) For sections 31, 33, 34, 35 and 48 of this act, on January 1, 2009.

(5) For section 50 of this act, on January 1, 2011.

2. Sections 62 to 106, inclusive, of this act expire by limitation on June 30, 2011.

†

~~TEXT OF REPEALED SECTIONS~~

~~Section 3 of chapter 335, Statutes of Nevada 2001:~~

~~Sec. 3. NRS 361.0687 is hereby amended to read as follows:~~

~~361.0687 1. A person who intends to locate or expand a business in this state may, pursuant to NRS 360.750, apply to the commission on economic development for a partial abatement from the taxes imposed by this chapter.~~

~~2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the commission on economic development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:~~

~~(a) If the business is a new business in a county or city whose population is 50,000 or more:~~

~~(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$5,000,000 if the business is not an industrial or manufacturing business; and~~

~~(2) The average hourly wage that will be paid by the new business to its employees in this state is at least 100 percent of the average statewide hourly wage as established by the employment security division of the department of employment, training and rehabilitation on July 1 of each fiscal year.~~

~~(b) If the business is a new business in a county or city whose population is less than 50,000:~~

~~(1) The business will make a capital investment in the county of at least \$5,000,000 if the business is an industrial or manufacturing business or at least \$500,000 if the business is not an industrial or manufacturing business; and~~

~~(2) The average hourly wage that will be paid by the new business to its employees in this state is at least 100 percent of the average statewide hourly wage as established by the employment security division of the department of employment, training and rehabilitation on July 1 of each fiscal year.~~

~~3. ~~[[If] [Except as otherwise provided in NRS 361.0685, if a partial abatement from the taxes imposed by this chapter is approved by the commission on economic development pursuant to NRS 360.750:~~~~

~~(a) The partial abatement must:~~

~~(1) Be for a duration of at least 1 year but not more than 10 years;~~

~~(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and~~

~~(3) Be administered and carried out in the manner set forth in NRS 360.750.~~

~~(b) The executive director of the commission on economic development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the commission granted. The executive director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.~~

~~Section 3 of chapter 389, Statutes of Nevada 2005:~~

~~Sec. 3. NRS 361.0687 is hereby amended to read as follows:~~

~~361.0687 1. A person who intends to locate or expand a business in this State may, pursuant to NRS 360.750, apply to the Commission~~

~~on Economic Development for a partial abatement from the taxes imposed by this chapter.~~

~~2. For a business to qualify pursuant to NRS 360.750 for a partial abatement from the taxes imposed by this chapter, the Commission on Economic Development must determine that, in addition to meeting the other requirements set forth in subsection 2 of that section:~~

~~(a) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more:~~

~~(1) The business will make a capital investment in the county of at least \$50,000,000 if the business is an industrial or manufacturing business or at least \$5,000,000 if the business is not an industrial or manufacturing business; and~~

~~(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.~~

~~(b) If the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000:~~

~~(1) The business will make a capital investment in the county of at least \$5,000,000 if the business is an industrial or manufacturing business or at least \$500,000 if the business is not an industrial or manufacturing business; and~~

~~(2) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year.~~

~~3. Except as otherwise provided in NRS 361.0685, if a partial abatement from the taxes imposed by this chapter is approved by the Commission on Economic Development pursuant to NRS 360.750:~~

~~(a) The partial abatement must:~~

~~(1) Be for a duration of at least 1 year but not more than 10 years;~~

~~(2) Not exceed 50 percent of the taxes on personal property payable by a business each year pursuant to this chapter; and~~

~~(3) Be administered and carried out in the manner set forth in NRS 360.750.~~

~~(b) The Executive Director of the Commission on Economic Development shall notify the county assessor of the county in which the business is located of the approval of the partial abatement, including, without limitation, the duration and percentage of the partial abatement that the Commission granted. The Executive Director shall, on or before April 15 of each year, advise the county assessor of each county in which a business qualifies for a partial abatement during the current~~

~~fiscal year as to whether the business is still eligible for the partial abatement in the next succeeding fiscal year.]~~

Senator Townsend moved the adoption of the amendment.

Remarks by Senators Townsend, Care and Carlton.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 467.

Bill read third time.

Roll call on Senate Bill No. 467:

YEAS—21.

NAYS—None.

Senate Bill No. 467 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 469.

Bill read third time.

Remarks by Senators Beers, Raggio and Cegavske.

Roll call on Senate Bill No. 469:

YEAS—17.

NAYS—Beers, Cegavske, Heck, McGinness—4.

Senate Bill No. 469 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 476.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 957.

"SUMMARY—Makes various changes concerning business practices. (BDR 54-1389)"

"AN ACT relating to business; providing for the licensing and regulation of exchange facilitators by the Division of Financial Institutions of the Department of Business and Industry; authorizing the Division to charge and collect fees in certain circumstances; providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Real Estate Division of the Department of Business and Industry regulates the activities of qualified intermediaries. (NRS 645.606-645.6085) This bill transfers regulatory and licensing authority concerning qualified intermediaries from the Real Estate Division to the Division of Financial Institutions of the Department of Business and Industry.

Section 42 of this bill renames the entities to be regulated and licensed as "exchange facilitators," and expands the scope of this term to include both qualified intermediaries and exchange accommodation titleholders.

Sections ~~3-21.1~~ 3-21.5, 42, 43 and 47-50 of this bill regulate the activities of exchange facilitators and include provisions concerning: (1) applications for and renewals of a license as an exchange facilitator; (2) certain bonds and insurance policies that must be maintained by a licensee; (3) the handling of money held in accounts for clients; (4) the management of a licensee that is not a natural person; and (5) notice that must be provided to clients and to the Division in certain circumstances. ~~Section 21 sets~~ Sections 21 and 21.5 set forth the fees which the Division is required to charge and collect relating to applications for and renewals of a license, and how money received by the Division must be deposited.

Sections 22-38 of this bill govern disciplinary proceedings against an exchange facilitator. Section 22 authorizes the Commissioner of the Division of Financial Institutions to investigate an exchange facilitator. Section 25 authorizes the Commissioner to require a licensee to pay an administrative fine of not more than \$200 per day or to suspend, revoke, deny the renewal of or place conditions upon his license, or impose any combination of such actions in certain circumstances. Under section 38, a person who is not licensed pursuant to the provisions of this bill who acts as an exchange facilitator or holds himself out as a licensee is guilty of a misdemeanor and is further liable to the Division for a civil penalty of \$200 per day for each day that the violation continues.

Section 39 of this bill authorizes the Division to issue a reciprocal license to a person who is licensed as an exchange facilitator in another state in certain circumstances. Section 39.5 of this bill authorizes the Division to issue a special license to a financial institution that maintains an office in this State in certain circumstances.

Section 40 of this bill requires the Commissioner to conduct an audit of all exchange facilitators at least every 5 years and to conduct on a random basis additional partial audits of any licensee who has a history of violations of the provisions of this bill.

Upon passage and approval of this bill, the Legislative Counsel will transfer NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act from chapter 645 of NRS to a new chapter of NRS. Upon passage and approval of this bill, the Legislative Counsel will transfer all the regulations created under NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act to the chapter of NAC that corresponds with the new chapter of NRS in which NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act are transferred.

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

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 645 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 40, inclusive, of this act.

Sec. 3. *As used in NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 645.606 and sections 4 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. *"Commissioner" means the Commissioner of Financial Institutions.*

Sec. 5. *"Division" means the Division of Financial Institutions of the Department of Business and Industry.*

Sec. 6. *"Financial institution" means any bank, savings and loan association, savings bank or trust company, including an affiliate, subsidiary or holding company of these, doing business in this State that is federally insured and organized under, or supervised pursuant to, the laws of the United States or of any state.*

Sec. 7. *"Licensee" means a person licensed as an exchange facilitator pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act.*

Sec. 8. *Except as otherwise provided in NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, do not apply to:*

1. *Any bank, thrift company, credit union, trust company, savings and loan association, including an affiliate, subsidiary or holding company of these, or any mortgage or farm loan association licensed under the laws of this State or of the United States, with reference to property it has acquired for development, for the convenient transaction of its business, or as a result of foreclosure of property encumbered in good faith as security for a loan or other obligation it has originated or holds.*

2. *A corporation which, through its regular officers who receive no special compensation for it, performs any of those acts with reference to the property of the corporation.*

3. *The services rendered by an attorney at law in the performance of his duties as an attorney at law.*

4. *A receiver, trustee in bankruptcy, administrator or executor, or any other person doing any of the acts specified in NRS 645.030 under the jurisdiction of any court.*

5. *A trustee acting under a trust agreement, deed of trust or will, or the regular salaried employees thereof.*

6. *The purchase, sale or locating of mining claims or options thereon or interests therein.*

7. *The State of Nevada or a political subdivision thereof.*

Sec. 9. 1. *A license issued pursuant to NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act is nontransferable.*

2. *The business of a licensee must not be sold or ownership of the business transferred before the prospective buyer or owner has complied with the provisions of section 43 of this act.*

Sec. 10. 1. *A licensee may establish one or more branch offices in this State.*

2. *A licensee who establishes one or more branch offices in this State shall provide written notice to the Division of the establishment of any such branch office within 30 days after establishment of the branch office.*

Sec. 11. *A license issued pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act must be conspicuously displayed in the primary place of business of the licensee, and a copy of the license must be conspicuously displayed in each branch office of the licensee.*

Sec. 12. 1. *The business of a licensee, if the licensee is not a natural person, must be conducted under the direct management of an officer or employee of the licensee designated by the licensee as an exchange facilitator officer, who is licensed pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act and who is:*

(a) An attorney or certified public accountant admitted to practice in any state or territory of the United States;

(b) A certified exchange specialist certified by the Federation of Exchange Accommodators or its successor; or

(c) A person who has been actively conducting the business of an exchange facilitator or who has equivalent experience, as determined by the Division, for the 3 years immediately preceding his designation as an exchange facilitator officer.

2. *A licensee shall immediately notify the Division in writing of:*

(a) The designation of any exchange facilitator officer, setting forth the experience and qualifications of the exchange facilitator officer and other such information as may be required by the Division; and

(b) The termination of the employment of any exchange facilitator officer.

Sec. 13. 1. *Each licensee is a fiduciary of all money, property, other considerations and instruments received by the licensee from the client.*

2. *Each licensee shall invest money related to a tax-deferred exchange of property in investments which meet the reasonable standards that are applicable to persons acting as fiduciaries in this State.*

Sec. 14. *Money held in any account for a client may not be withdrawn from the account without the written approval of the licensee and the client.*

Sec. 15. 1. *Except as otherwise provided in subsection 2_, ~~and section 17 of this act,~~ a licensee shall maintain a policy of insurance covering liability for errors and omissions in an amount not less than \$250,000 executed by an insurer authorized to do business in this State and approved by the Division.*

2. *In lieu of such a policy of insurance, a licensee may deposit with the Division under such terms and conditions as the Division may prescribe, a*

like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Division.

3. A licensee shall provide proof of the coverage required pursuant to this section, including, without limitation, the name and address of the insurer, to a client.

4. The provisions of subsections 1 and 2 do not prohibit the licensee from maintaining a policy of insurance, deposits or other forms of security in excess of the amounts required by subsections 1 and 2.

5. Any person claiming against a policy of insurance or deposit required by this section may bring an action in a court of competent jurisdiction on the policy of insurance or deposit for damages to the extent covered by the policy. A person who brings an action on a policy or deposit shall notify the Division in writing upon filing the action.

6. Upon receiving a request from a client of an exchange facilitator, the Division shall notify the client:

(a) That a policy of insurance is in effect or that a deposit has been made, and the amount of either; and

(b) If there is an action against the policy of insurance, of the title, court and case number of the action and the amount sought by the plaintiff.

7. If an insurer, or in the case of a deposit, the Division, wishes to make payment without awaiting action by a court, the amount of the policy or deposit must be reduced to the extent of any payment made by the insurer or the Division in good faith under the policy or deposit. Any payment must be based on written claims received by the insurer or the Division before any action is taken by a court.

8. Claims against a policy of insurance or deposit have equal priority, and if the policy or deposit is insufficient to pay all claims in full, they must be paid on a pro rata basis. Partial payment of claims is not full payment, and any claimant may bring an action against the exchange facilitator for the unpaid balance.

Sec. 16. A licensee shall provide written notice to the Division at least 30 days before the cancellation or withdrawal of any bond, policy of insurance or security required pursuant to NRS 645.608 or section 15 of this act. The Division shall suspend the license of a licensee upon notice that the licensee has cancelled or withdrawn any bond, policy of insurance or security required pursuant to NRS 645.608 or section 15 of this act.

Sec. 17. ~~1. If the Division determines that the requirements of NRS 645.608 are not commercially reasonable, the Division may waive or modify the requirements for such time as the Division deems appropriate.~~

~~2. If the Division determines that the requirements of section 15 of this act are not commercially reasonable, the Division may waive or modify the~~

~~requirements for such time as the Division deems appropriate.] (Deleted by amendment.)~~

Sec. 18. All exchange funds must be kept separate from money belonging to the licensee and must be deposited in a financial institution that is federally insured or insured by a private insurer approved pursuant to NRS 678.755 unless another financial institution has been designated in writing in the exchange agreement. The money when deposited must be designated as "trust funds" or "escrow accounts" or under some other appropriate name indicating that the money is not the money of the licensee.

Sec. 19. 1. Exchange funds are not subject to execution or attachment on any claim against the licensee.

2. A licensee shall not knowingly keep or cause to be kept any money in any bank, credit union or other financial institution under any name designating the money as belonging to the clients of any licensee, unless the money belongs to the client and was actually entrusted to the licensee by the client.

Sec. 20. If a licensee fails to apply for a renewal of his license before the date of the expiration thereof, no license may be issued to him except upon another application for an original license, except that within 1 year of such expiration a renewal may be issued upon payment of a fee one and one-half times the amount otherwise required for renewal.

Sec. 21. 1. ~~The [Division]~~ Commissioner shall charge and collect ~~for not more than~~ the following fees:

~~For filing and the investigation of an application for a license~~	~~\$500~~
~~For the issuance of a license~~	~~200~~
~~For annual renewal of a license~~	~~200~~
~~For issuance of a license for each branch office of a licensee~~	~~200~~
~~For annual renewal of a license for each branch office of a licensee~~	~~200~~
~~For issuance of a reciprocal license~~	~~150~~
~~For annual renewal of a reciprocal license~~	~~150~~
~~For reissuance of a license because of a change in the business address of the licensee~~	~~200~~

(a) For the filing and investigation of an application for a license, a nonrefundable fee of not more than \$1,000 and any additional expenses incurred in the process of investigation;

(b) For the issuance of a license, at least \$200;

(c) For the annual renewal of a license, at least \$200;

(d) For the issuance of a license for each branch office of a licensee, a nonrefundable fee of at least \$200;

(e) For the annual renewal of a license for each branch office of a licensee, at least \$250;

(f) For the issuance of a reciprocal license, at least \$150;

(g) For the annual renewal of a reciprocal license, at least \$150; and

(h) For the reissuance of a license because of a change in the business address of the licensee, at least \$200.

2. All money received by the Commissioner pursuant to paragraph (a) of subsection 1 must be placed in the Investigative Account for Financial Institutions created by NRS 232.545.

3. The Commissioner shall adopt regulations establishing the amount of fees required pursuant to this section.

Sec. 21.5. Except as otherwise provided in NRS 645.6085 and section 21 of this act, all money received by the Commissioner pursuant to this chapter must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 22. The Commissioner or the Division may investigate the actions of any exchange facilitator or any person who acts in any such capacity within this State.

Sec. 23. The Division shall maintain a public docket or other record in which it shall record from time to time as made:

1. The rulings or decisions upon all complaints filed with the Division concerning an exchange facilitator.

2. All investigations instituted by the Commissioner or the Division in the first instance, upon or in connection with which any hearing has been held, or in which the licensee charged has made no defense.

3. Denials of applications made to the Division for licensing.

Sec. 24. 1. Except as otherwise provided in this section, a complaint filed with the Division alleging a violation of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

2. A complaint or other document filed with the Division to initiate disciplinary action and all documents and information considered by the Division when determining whether to impose discipline are public records.

Sec. 25. 1. The Commissioner may require a licensee to pay an administrative fine of not more than \$200 per day for each violation he commits or may suspend, revoke, deny the renewal of or place conditions upon his license, or impose any combination of those actions, at any time if:

(a) The licensee, by false or fraudulent representation, obtained a license.

(b) The licensee, whether or not acting as such, is found guilty of:

(1) Making any material misrepresentation.

(2) Making any false promises of a character likely to influence, persuade or induce.

(c) The licensee has failed, within a reasonable time, to account for or to remit any money which comes into his possession or under his control and which belongs to others.

(d) The licensee has engaged in any fraudulent act.

(e) *The licensee or an owner, officer, director or employee of a licensee, is found guilty of any crime involving fraud, misrepresentation, deceit, embezzlement, misappropriation of money, robbery or theft.*

(f) *The licensee has failed to fulfill a contractual duty to deliver property or money, unless the failure to deliver such property or money is beyond the control of the licensee.*

(g) *A receiver or conservator is appointed to take control of the assets of a licensee.*

(h) *The licensee is dissolved.*

(i) *The licensee is bankrupt.*

(j) *The licensee fails to maintain, for review and audit by the Division, each agreement governed by the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act and entered into by the licensee.*

(k) *The licensee violates any provision of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act or any regulations adopted pursuant thereto.*

2. *An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.*

3. *In addition to any action set forth in subsection 1, the Division may, if it determines that an applicant for a license or a licensee has committed any of the acts set forth in subsection 1, after notice and a hearing required by law, require the applicant or licensee to pay the costs incurred by the Division to conduct any related investigation or hearing.*

Sec. 26. 1. *The Division shall not suspend the license of a licensee pursuant to section 25 of this act for more than 2 years.*

2. *After the revocation of any license by the Commissioner as provided in NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, no new license may be issued to the same licensee within 2 years after the date of the revocation and then only provided that the licensee satisfies all the requirements for an original license.*

Sec. 27. (Deleted by amendment.)

Sec. 28. *The expiration or revocation of a license by operation of law or by order or decision of the Division or a court of competent jurisdiction, or the voluntary surrender of a license does not:*

1. *Prohibit the Commissioner or the Division from initiating or continuing an investigation of, or action or disciplinary proceeding against, the exchange facilitator as authorized pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act or the regulations adopted pursuant thereto; or*

2. *Prevent the imposition or collection of any penalty authorized pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act or the regulations adopted pursuant thereto against the exchange facilitator.*

Sec. 29. 1. *The procedure set forth in this section and section 30 of this act must be followed before the Division revokes, suspends or denies the renewal of any license issued pursuant to NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act.*

2. *Upon the initiation of a complaint by the Division, the matter must be set for a hearing by the Commissioner, who shall schedule a hearing before the Commissioner, and the licensee is entitled to be heard thereon in person or by counsel.*

3. *The Commissioner shall hold the hearing within 90 days after the filing of a complaint by the Division. The time of the hearing may be continued at the discretion of the Commissioner or upon the written request of the licensee or of the Division for good cause shown.*

4. *The licensee must be given at least 30 days' notice in writing by the Division of the date, time and place of the hearing together with a copy of the complaint and copies of all communications, reports, affidavits or depositions in possession of the Division relevant to the complaint. The Division may present evidence obtained after the notice only if the Division shows that the evidence was not available after diligent investigation before the time notice was given to the licensee and that the evidence was given or communicated to the licensee immediately after it was obtained.*

5. *Notice is complete upon delivery personally to the licensee or by mailing by certified mail to the last known address of the licensee.*

Sec. 30. 1. *The licensee shall file an answer to the charges with the Commissioner not later than 30 days after service of the notice and other documents described in subsection 4 of section 29 of this act. The answer must contain an admission or denial of the allegations contained in the complaint and any defenses upon which the licensee will rely. If no answer is filed within the time limit described in this subsection, the Division may, after notice to the licensee served in the manner authorized in subsection 5 of section 29 of this act, move for the entry of a default against the licensee.*

2. *The answer may be served by delivery to the Division, or by mailing the answer by certified mail to the principal office of the Division.*

3. *No proceeding to suspend, revoke or deny the renewal of any license may be maintained unless it is commenced by the giving of notice to the licensee within 3 years of the time of the act charged, whether of commission or omission, except:*

(a) *If the charges are based upon a misrepresentation, or failure to disclose, the period does not commence until the discovery of facts which do or should lead to the discovery of the misrepresentation or failure to disclose; and*

(b) *Whenever any action or proceeding is instituted to which the Division or the licensee is a party and which involves the conduct of the licensee in the transaction with which the charges are related, the running of the 3-year period with respect to the institution of a proceeding pursuant to NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this*

act to suspend, revoke or deny the renewal of the license is suspended during the pendency of the action or proceeding.

Sec. 31. The hearing on the charges must be held at such time and place as the Commissioner prescribes. At the hearing, a stenographic transcript of the proceedings must be made if requested or required for judicial review. Any party to the proceedings desiring a transcript must be furnished with a copy upon payment to the Division of the reasonable cost of transcription.

Sec. 32. 1. The Commissioner shall have the power to administer oaths, certify to all official acts, and issue subpoenas for attendance of witnesses and the production of books and papers.

2. In any hearing or investigation in any part of the State, the process issued by the Commissioner shall extend to all parts of the State and may be served by any person authorized to serve process of courts of record. The person serving any such process shall receive such compensation as may be allowed by the Commissioner, not to exceed the fees prescribed by law for similar service, and such fees must be paid in the same manner as provided in section 33 of this act for the payment of the fees of witnesses.

Sec. 33. 1. Each witness who appears by order of the Commissioner is entitled to receive for his attendance the same fees and mileage allowed by law to a witness in civil cases, which amount must be paid by the party at whose request the witness is subpoenaed.

2. When any witness not otherwise required to attend is subpoenaed by the Commissioner, his fees and mileage must be paid by the Division.

Sec. 34. 1. The district court in and for the county in which any hearing may be held shall have the power to compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the Commissioner.

2. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, the Commissioner may report to the district court in and for the county in which the hearing is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act; and

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the Commissioner in the cause or proceeding named in the subpoena, or has refused to answer questions propounded to him in the course of such hearing,

➡ and asking an order of the court compelling the witness to attend and testify or produce the books or papers before the Commissioner.

3. The court, upon petition of the Commissioner, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from

the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the Commissioner. A certified copy of the order shall be served upon the witness. If it shall appear to the court that the subpoena was regularly issued by the Commissioner, the court shall thereupon enter an order that the witness appear before the Commissioner at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order, the witness shall be dealt with as for contempt of court.

Sec. 35. 1. *The Commissioner may, in any hearing before him, cause the depositions of witnesses residing within or without the State to be taken in the manner prescribed by the Nevada Rules of Civil Procedure for like depositions in civil actions in the district courts of this State, and to that end may compel the attendance of witnesses and the production of books and papers.*

2. *The clerk of the district court in and for the county in which any hearing may be held by the Commissioner shall, upon the application of the Commissioner, issue commissions to other states for the taking of evidence therein for use in any proceedings before the Commissioner.*

3. *Any party to any hearing before the Commissioner shall have the right to the attendance of witnesses in his behalf at such hearing or upon deposition as set forth in this section upon making request therefor to the Commissioner and designating the name and address of the person or persons sought to be subpoenaed.*

Sec. 36. 1. *The Commissioner shall render an informal decision on any complaint within 15 days after the final hearing thereon and shall give notice in writing of the ruling or decision to the applicant or licensee affected thereby within 60 days after the final hearing thereon by certified mail to the last known address of the person to whom the notice is sent.*

2. *If the ruling is adverse to the licensee, the Commissioner shall also state in the notice the date upon which the ruling or decision becomes effective, which date must not be less than 30 days after the date of the notice.*

3. *The decision of the Commissioner may not be stayed by any appeal in accordance with the provisions of section 37 of this act, unless the district court so orders upon motion of the licensee, notice to the Division of the motion and opportunity for the Division to be heard.*

4. *An appeal from a decision of the district court affirming the revocation or suspension of a license does not stay the order of the Commissioner unless the district or appellate court, in its discretion and upon petition of the licensee, after notice and hearing orders such stay, and upon the filing of a bond for costs in the amount of \$1,000.*

Sec. 37. 1. *A ruling or decision of the Commissioner in any disciplinary action is final when in favor of the licensee.*

2. *If a ruling or decision is against the licensee, the licensee is entitled to judicial review of the ruling or decision in the manner provided by chapter 233B of NRS.*

Sec. 38. 1. *Any person who is not licensed pursuant to NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act who acts as an exchange facilitator in this State or holds himself out as a licensee and any licensee who commits an act set forth in subsection 1 of section 25 of this act is:*

(a) Guilty of a misdemeanor.

(b) Liable to the Division for a civil penalty of \$200 per day for each day that the violation continues.

2. *The Division may file an action for injunctive relief in the appropriate district court in this State to prevent the occurrence or continuance of that act.*

Sec. 39. 1. *A person who is licensed as an exchange facilitator in another state or territory of the United States and is not otherwise required to be licensed pursuant to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act may submit an application for a reciprocal license as an exchange facilitator pursuant to the provisions of this section. The Division shall issue a reciprocal license to the applicant if:*

(a) The applicant is licensed in a jurisdiction that grants reciprocal licensing to a person licensed pursuant to NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act;

(b) The Division determines that the laws and regulations governing exchange facilitators of the jurisdiction in which the applicant is licensed are at least equivalent to the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act;

(c) The applicant provides proof satisfactory to the Division that the applicant has complied with the requirements of NRS 645.608 and section 15 of this act;

(d) The applicant pays the fee required pursuant to section 21 of this act;

(e) The applicant designates the Division as its representative to receive service of process for matters arising in this State; and

(f) The applicant does not maintain an office in this State in connection with the conduct of the business of an exchange facilitator.

2. *The Division shall:*

(a) Examine the laws of each state to identify the jurisdictions that meet the requirements for recognition of a reciprocal license pursuant to this section; and

(b) Publish annually a list of the jurisdictions that meet the requirements of this section.

3. *A license issued pursuant to this section must be renewed annually on or before July 1, by providing the information required by the Division for that purpose and paying the renewal fee prescribed by section 21 of this act.*

Sec. 39.5. 1. *A financial institution may obtain a special license pursuant to this section.*

2. *The Division shall issue a special license to a financial institution if the financial institution:*

- (a) Maintains an office in this State;*
- (b) Pays the fee required pursuant to section 21 of this act for the issuance of a license; and*
- (c) Complies with any other requirements set forth by regulations adopted by the Division.*

3. *A financial institution which obtains a special license pursuant to this section is exempt from the requirements of subsections 2 to 7, inclusive, of section 43 of this act except as otherwise required by regulations adopted by the Division.*

4. *A license issued pursuant to this section must be renewed annually on or before July 1, by providing the information required by the Division for that purpose and paying the renewal fee prescribed by section 21 of this act.*

Sec. 40. 1. *The Commissioner shall cause to be conducted at least every 5 years an audit of all licensees. The Commissioner shall cause to be conducted each year on a random basis additional partial audits of any licensee who has a history of violations of the provisions of NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act, or the regulations adopted pursuant thereto, as determined by the Commissioner.*

2. *The Commissioner shall require the use of standard auditing procedures and shall establish a manual to describe the standard auditing procedures. The manual must include, without limitation:*

- (a) Specific audit objectives;*
- (b) Standards for documentation;*
- (c) Policies for supervisory review;*
- (d) Policies for the training of auditors;*
- (e) The format for the audit report; and*
- (f) Procedures for the presentation, distribution and retention of the audit report.*

3. *On or before March 1 of each year, the Commissioner shall make a report of each audit to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session.*

Sec. 41. NRS 645.240 is hereby amended to read as follows:

645.240 ~~1.~~ The provisions of this chapter do not apply to, and the terms "real estate broker" and "real estate salesman" do not include, any:

~~1.~~ 1. Owner or lessor of property, or any regular employee of such a person, who performs any of the acts mentioned in NRS 645.030, 645.040, 645.230 and 645.260, with respect to the property in the regular course of or as an incident to the management of or investment in the property. For the purposes of this paragraph, "management" means activities which tend to preserve or increase the income from the property by preserving the physical

desirability of the property or maintaining high standards of service to tenants. The term does not include sales activities.

~~[(b)]~~ 2. Employee of a real estate broker while engaged in the collection of rent for or on behalf of the broker.

~~[(e)]~~ 3. Person while performing the duties of a property manager for a property, if the person maintains an office on the property and does not engage in property management with regard to any other property.

~~[(d)]~~ 4. Person while performing the duties of a property manager for a common-interest community governed by the provisions of chapter 116 of NRS, a condominium project governed by the provisions of chapter 117 of NRS, a time share governed by the provisions of chapter 119A of NRS, or a planned unit development governed by the provisions of chapter 278A of NRS, if the person is a member in good standing of, and, if applicable, holds a current certificate, registration or other similar form of recognition from, a nationally recognized organization or association for persons managing such properties that has been approved by the Real Estate Division by regulation.

~~[(e)]~~ 5. Person while performing the duties of a property manager for property used for residential housing that is subsidized either directly or indirectly by this State, an agency or political subdivision of this State, or the Federal Government or an agency of the Federal Government.

~~[2.—Except as otherwise provided in NRS 645.606 to 645.6085, inclusive, the provisions of this chapter do not apply to:~~

~~(a) Any bank, thrift company, credit union, trust company, savings and loan association or any mortgage or farm loan association licensed under the laws of this State or of the United States, with reference to property it has acquired for development, for the convenient transaction of its business, or as a result of foreclosure of property encumbered in good faith as security for a loan or other obligation it has originated or holds.~~

~~(b) A corporation which, through its regular officers who receive no special compensation for it, performs any of those acts with reference to the property of the corporation.~~

~~(c) The services rendered by an attorney at law in the performance of his duties as an attorney at law.~~

~~(d) A receiver, trustee in bankruptcy, administrator or executor, or any other person doing any of the acts specified in NRS 645.030 under the jurisdiction of any court.~~

~~(e) A trustee acting under a trust agreement, deed of trust or will, or the regular salaried employees thereof.~~

~~(f) The purchase, sale or locating of mining claims or options thereon or interests therein.~~

~~(g) The State of Nevada or a political subdivision thereof.]~~

Sec. 42. NRS 645.606 is hereby amended to read as follows:

645.606 1. ~~[As used in NRS 645.606 to 645.6085, inclusive, "qualified intermediary" has the meaning ascribed to it]~~ "Exchange facilitator" means a person who, for compensation of any kind, acts as:

(a) *A qualified intermediary as defined in 26 C.F.R. § ~~1.1031(k)-1(g)~~ 1.1031(k)-1(g)(4) for a client whose relinquished property is located in this State; or*

(b) *An exchange accommodation titleholder, as that term is defined in Rev. Proc. 2000-37, who holds title to property located in this State.*

2. The term includes any person who ~~advertises~~ :

(a) *Maintains an office in this State for the purpose of soliciting business as an exchange facilitator; or*

(b) *Advertises or holds himself out as prepared to facilitate a tax-deferred exchange of property in this State by acting as the custodian of money or other property.*

3. The term does not include ~~a bank, credit union or other depository institution, an escrow company, a title insurer, an agent licensed pursuant to chapter 692A of NRS or its subsidiaries or employees.~~ :

(a) *A taxpayer or disqualified person, as those terms are defined in 26 C.F.R. § 1.1031(k)-1(k), who is seeking to qualify for nonrecognition pursuant to 26 U.S.C. § 1031;*

(b) *A financial institution when acting solely as a depository for funds used in a tax-deferred exchange of property;*

(c) *A person who advertises for and teaches seminars or classes, or otherwise gives presentations to attorneys, accountants, real estate professionals, tax professionals or other professionals with the primary purpose of teaching such professionals about tax-deferred exchanges or training such professionals to act as exchange facilitators; or*

(d) *A qualified intermediary, as defined in 26 C.F.R. § 1.1031(k)-1(g)(4), who holds exchange funds received from the disposition of relinquished property located outside this State.*

Sec. 43. NRS 645.6065 is hereby amended to read as follows:

645.6065 1. Except as otherwise provided in NRS 645.607, a person shall not act as ~~a qualified intermediary~~ *an exchange facilitator* unless he is ~~registered~~ *licensed* as such with the Division. The Division may adopt such regulations as it deems necessary to carry out the provisions of NRS 645.606 to 645.6085, inclusive ~~[-]~~ , and sections 3 to 40, inclusive, of this act, including, without limitation, regulations prescribing amounts required for liquidity purposes.

2. To apply for ~~registration~~ *a license as an exchange facilitator*, a person must pay the Division ~~a fee of \$100 and a fee to pay the costs of an investigation of the person's background.~~ *the fee prescribed by section 21 of this act.*

3. In addition to the requirements set forth in subsection 2, the person must submit to the Division:

(a) The following information on a form provided by the Division:

(1) The applicant's name, *business* address and telephone number;

(2) The name under which the applicant will hold the money or other property of a client;

(3) The names, residence and business addresses of all *shareholders or members who hold 10 percent or more of the voting stock of the applicant's business and all persons having an interest in the business as principals, partners, officers, trustees or directors, specifying the capacity and title of each; and*

(4) The length of time the applicant has been engaged in the business of acting as such an ~~intermediary; and~~ *exchange facilitator;*

(5) *A summary description of the business of the applicant;*

(6) *A list of any similar licenses obtained and maintained in other states or other jurisdiction and information regarding revocation of any such license;*

(7) *The tax identification number of the applicant; and*

(8) *A current certificate of good standing for the applicant from the state or other jurisdiction in which the applicant's business is formed; and*

(b) All information required to complete the application.

4. Each applicant must, as part of his application and at his own expense:

(a) Arrange to have ~~a complete set of his fingerprints~~ taken, by a law enforcement agency or other authorized entity acceptable to the Division ~~[-]~~, *a complete set of the applicant's fingerprints and the fingerprints of each person or officer who will be conducting the business of the applicant in this State and who has authority to transfer exchange money held by the applicant; and*

(b) Submit to the Division:

(1) A completed fingerprint card and written permission authorizing the Division to submit the ~~applicant's~~ fingerprints *described in paragraph (a)* to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for a report on the ~~applicant's~~ background *of each person whose fingerprints were taken* and to such other law enforcement agencies as the Division deems necessary; or

(2) Written verification, on a form prescribed by the Division, stating that the fingerprints ~~of the applicant~~ *described in paragraph (a)* were taken and directly forwarded electronically or by another means to the Central Repository and that ~~the applicant~~ *each person whose fingerprints were taken* has given written permission to the law enforcement agency or other authorized entity taking the fingerprints to submit the fingerprints to the Central Repository for submission to the Federal Bureau of Investigation for a report on the ~~applicant's~~ background *of each such person* and to such other law enforcement agencies as the Division deems necessary.

5. The Division may:

(a) Unless the ~~applicant's~~ fingerprints *described in paragraph (a) of subsection 4* are directly forwarded pursuant to subparagraph (2) of paragraph (b) of subsection 4, submit those fingerprints to the Central Repository for submission to the Federal Bureau of Investigation and to such other law enforcement agencies as the Division deems necessary; and

(b) Request from each such agency any information regarding the ~~[applicant's]~~ background of each person whose fingerprints were taken as the Division deems necessary.

6. ~~[Registration]~~ *The Division shall approve an application submitted pursuant to this section within 45 days after the submission of the completed application, any additional information required by the Division and proof satisfactory to the Division that the applicant has complied with the provisions of NRS 645.608. Upon approval of an application, the Division shall issue a license to the applicant.*

7. *A license issued pursuant to ~~[this section]~~ NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act must be renewed ~~[each year]~~ annually on or before ~~[the date of the original registration]~~ July 1, by providing the information required by the Division for that purpose and paying a renewal fee ~~[of \$75]~~ prescribed by section 21 of this act.*

Sec. 44. NRS 645.6068 is hereby amended to read as follows:

645.6068 1. In addition to any other requirements set forth in this chapter:

(a) A natural person who applies for the issuance of his ~~[registration as a qualified intermediary]~~ license as an exchange facilitator shall include the social security number of the applicant in the application submitted to the Division.

(b) A natural person who applies for the issuance or renewal of his ~~[registration as a qualified intermediary]~~ license as an exchange facilitator shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the ~~[registration]~~ license; or

(b) A separate form prescribed by the Division.

3. An applicant may not be ~~[registered as a qualified intermediary]~~ licensed as an exchange facilitator by the Division if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount

owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 45. NRS 645.6068 is hereby amended to read as follows:

645.6068 1. In addition to any other requirements set forth in this chapter, a natural person who applies for the issuance or renewal of his ~~[registration as a qualified intermediary]~~ *license as an exchange facilitator* shall submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the ~~[registration]~~ *license*; or

(b) A separate form prescribed by the Division.

3. An applicant may not be ~~[registered as a qualified intermediary]~~ *licensed as an exchange facilitator* by the Division if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 46. NRS 645.6069 is hereby amended to read as follows:

645.6069 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is ~~[registered with the Division as a qualified intermediary]~~ *licensed as an exchange facilitator*, the Division shall deem the ~~[registration]~~ *license* issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person who is ~~[registered as a qualified intermediary]~~ *licensed as an exchange facilitator* stating that the person has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate the ~~{registration of a qualified intermediary}~~ *license of an exchange facilitator* that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose ~~{registration}~~ *license* was suspended stating that the person whose ~~{registration}~~ *license* was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 47. NRS 645.607 is hereby amended to read as follows:

645.607 1. If the ~~{intermediary}~~ *exchange facilitator* is a corporation qualified to do business in this State, every officer, ~~{and}~~ *director and exchange facilitator officer designated pursuant to section 12 of this act* of the corporation who does business in this State must be ~~{registered}~~ *licensed*. No other employee is required to ~~{register}~~ *be licensed*.

2. *If the exchange facilitator is not a natural person or a publicly traded company, each shareholder, member or other owner who owns 10 percent or more of the voting stock, shares or other ownership interest of the exchange facilitator must be licensed.*

Sec. 48. NRS 645.6075 is hereby amended to read as follows:

645.6075 A ~~{qualified intermediary shall inform}~~ *licensee shall:*

1. *Maintain a principal place of business in this State or maintain a registered agent in this State;*

2. *Immediately inform the Division in writing of any change in ~~{his address or}~~ the address or telephone number ~~{}~~ of his principal place of business or his registered agent, and provide any other information required by the Division; and*

3. *Immediately inform all clients if:*

(a) *There is a change in any of the officers, directors, employees or owners of the licensee who are required to obtain a license pursuant to section 12 or 47 of this act; or*

(b) *The licensee or any person described in paragraph (a) acquires a new license, has his license suspended or revoked or otherwise relinquishes, loses or has any other change in the status of his license.*

Sec. 49. NRS 645.608 is hereby amended to read as follows:

645.608 1. Except as otherwise provided in ~~{section 17 of this act and}~~ *subsection 2, {a qualified intermediary} an exchange facilitator shall ~~{post with the Division a bond}~~ maintain one or more fidelity bonds in a total amount of not less than \$1,000,000 executed by ~~{the intermediary as principal, and by a corporation qualified pursuant to the laws of this State as a surety. The bond must be payable to the State of Nevada and conditioned upon the payment of all money due to the State and the clients of the intermediary. The Division shall, by regulation, establish the minimum amount required for the bond.}~~ an insurer authorized to do business in this State and approved by the Division.*

2. *In lieu of such a bond ~~{an intermediary}~~, a licensee may deposit with the Division under such terms and conditions as the Division may prescribe,*

a like amount of lawful money of the United States or any other form of security authorized by NRS 100.065. If security is provided in the form of a savings certificate, certificate of deposit or investment certificate, the certificate must state that the amount is unavailable for withdrawal except upon order of the Division.

3. *A licensee shall provide proof of the bond required pursuant to this section, including, without limitation, the name and address of the insurer, to a client.*

4. Any person claiming against a bond *or deposit required by this section* may bring an action in a court of competent jurisdiction on the bond *or deposit* for damages to the extent covered by the bond ~~[-]~~ *or deposit*. A person who brings an action on a bond *or deposit* shall notify the Division in writing upon filing the action.

~~[4-]~~ 5. Upon receiving a request from a person for whose benefit a bond *or deposit* is required, the Division shall notify him:

(a) That a bond is in effect *or that a deposit has been made*, and the amount of ~~the bond;~~ *either*; and

(b) If there is an action against the bond, of the title, court and case number of the action and the amount sought by the plaintiff.

~~[5-]~~ 6. If ~~a surety~~ *an insurer or, in the case of a deposit, the Division* wishes to make a payment without awaiting action by a court, the amount of the bond *or deposit* must be reduced to the extent of any payment made by the ~~surety~~ *insurer or the Division* in good faith under the bond ~~[-]~~ *or deposit*. Any payment must be based on written claims received by the ~~surety~~ *insurer or the Division* before any action is taken by a court.

~~[6-]~~ 7. Claims against a bond *or deposit* have equal priority, and if the bond *or deposit* is insufficient to pay all claims in full, they must be paid on a pro rata basis. Partial payment of claims is not full payment, and any claimant may bring an action against the ~~intermediary~~ *licensee* for the unpaid balance.

Sec. 50. NRS 645.6085 is hereby amended to read as follows:

645.6085 The Division shall deposit any money it receives from a civil penalty imposed pursuant to NRS 205.960 *and section 38 of this act* with the State Treasurer for credit to a separate account in the State General Fund. The Division shall expend at least 75 percent of the money so received to pay administrative costs related to:

1. The ~~registration of intermediaries;~~ *licensing of exchange facilitators*; and

2. Any program it develops to supply information regarding ~~intermediaries~~ *exchange facilitators* to the public.

➤ Any remaining money may be used by the Division to reimburse residents of Nevada for financial losses caused by the illegal conduct of an ~~intermediary~~ *exchange facilitator*.

Sec. 51. NRS 205.960 is hereby amended to read as follows:

205.960 1. It is unlawful for a person to enter into an agreement to act as ~~an~~ *a qualified intermediary* ~~[to hold the money of another person pursuant to an exchange of property which is or is purported to be tax free pursuant to 26 U.S.C. § 1031]~~, as defined in 26 C.F.R. § 1.1031(k)-1(g)(4), for a client whose relinquished property is located in this State unless:

(a) ~~[The intermediary is a qualified intermediary as defined in 26 C.F.R. § 1.1031(k)-1(g);]~~ The proceeds from the disposition of the relinquished property are deposited into a qualified escrow account or qualified trust as defined in 26 C.F.R. § 1.1031(k)-1(g)(3).

(b) ~~[The money is deposited in a qualified escrow account as defined in 26 C.F.R. § 1.1031(k)-1(g); and~~

~~(c)]~~ The money is held in such a manner that it may not be withdrawn from the *qualified escrow account or qualified trust* without the written approval of the intermediary and the ~~[person for whom he is holding the money]~~ *client*.

2. A person who violates the provisions of this section is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. In addition to any other penalty imposed, the court shall order a person who violates subsection 1 to pay a civil penalty of not less than \$10,000. The money so collected:

(a) Must not be deducted from any penal fine imposed by the court;

(b) Must be stated separately on the court's docket; and

(c) ~~Must be remitted forthwith to the [Administrator of the Real Estate Division of the Department of Business and Industry.] Commissioner of Financial Institutions.~~

Sec. 52. (Deleted by amendment.)

Sec. 52.5. NRS 692A.265 is hereby repealed.

Sec. 53. A regulation adopted by the Real Estate Division of the Department of Business and Industry pursuant to NRS 645.606 to 645.6085, inclusive, remains in effect as a regulation of the Division of Financial Institutions of the Department of Business and Industry until amended or repealed by the Division of Financial Institutions.

Sec. 54. As soon as is practicable after passage and approval of this act, the Legislative Counsel will transfer all the regulations created under NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act to the chapter of NAC that corresponds with the new chapter of NRS in which NRS 645.606 to 645.6085, inclusive, and sections 3 to 40, inclusive, of this act are transferred.

Sec. 55. 1. This section and sections 2 to 44, inclusive, and 46 to 54, inclusive, of this act become effective on July 1, 2007.

2. Section 44 of this act expires by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
 ➤ are repealed by the Congress of the United States.

3. Section 45 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
 ➤ are repealed by the Congress of the United States.

4. Sections 45 and 46 of this act expire by limitation on the date 2 years after the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,
 ➤ are repealed by the Congress of the United States.

TEXT OF REPEALED SECTION

692A.265 Title insurer, title agent or escrow officer prohibited from handling certain matters when intermediary involved is not registered; Real Estate Division to publish list of registered intermediaries.

1. A title insurer, title agent or escrow officer shall not handle an escrow, settlement or closing in which a qualified intermediary is involved unless he first verifies that the qualified intermediary is registered pursuant to NRS 645.606 to 645.6085, inclusive.

2. The Real Estate Division of the Department of Business and Industry shall, each calendar quarter, publish and distribute to each title insurer, title agent and escrow officer licensed by the Commissioner, a list of the qualified intermediaries registered pursuant to NRS 645.606 to 645.6085, inclusive. For the purposes of subsection 1, the registration of a qualified intermediary may be verified by ascertaining whether his name appears on the list most recently published pursuant to this subsection or, if his name does not appear on that list, by contacting the Real Estate Division.

3. As used in this section, "qualified intermediary" has the meaning ascribed to it in NRS 645.606.

Senator Heck moved the adoption of the amendment.

Remarks by Senators Heck, Carlton and Horsford.

Amendment adopted.

Senator Heck moved to withdraw Amendment No. 958 from Senate Bill No. 476.

Remarks by Senator Heck.

Motion carried.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 501.

Bill read third time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 1041.

"SUMMARY—Makes various changes to provisions relating to taxation and nonprofit entities that provide emergency medical services. (BDR 32-1406)"

"AN ACT relating to taxation; providing various exemptions for nonprofit entities that provide emergency medical services; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for certain exemptions from excise taxes on certain motor vehicle and aircraft fuels, and from sales tax on certain transfers of personal property. (NRS 365.220, 366.200, 372.7287, 374.7315) Sections 1, 2, 3 and 7 of this bill extend such exemptions to include certain nonprofit organizations that own or operate ambulances or air ambulances.

Existing law provides for certain exemptions from the governmental services tax on vehicles. (NRS 371.100-371.104) Section 2.5 of this bill provides such an exemption for ambulances owned or operated by certain nonprofit organizations.

Existing law also provides for certain excise taxes on motor vehicle and aircraft fuel to be imposed by counties in certain circumstances. (NRS 373.030, 373.065) Sections 4, 5 and 6 of this bill extend an exemption from such taxes to motor vehicle and aircraft fuel sold to certain nonprofit organizations that own or operate ambulances or air ambulances.

Existing law requires the payment of an additional fee of 50 cents for the issuance of a license plate and provides that the fee must be deposited in the Fund for Prison Industries to defray the cost of producing the license plate. (NRS 482.268) Section ~~8~~ 8.5 of this bill ~~authorizes the Department of Motor Vehicles to issue special license plates for~~ provides that the additional fee does not apply to an ambulance owned or operated by certain nonprofit organizations. ~~Section 8 also provides an exemption from the annual license and registration fees and the governmental services tax for an ambulance owned or operated by certain nonprofit organizations.~~

Existing law authorizes the Department of Motor Vehicles to charge and collect fees for issuing certificates of title for vehicles present or registered in this State. (NRS 482.429) Section 9.5 of this bill provides that such fees do not apply to an ambulance owned or operated by certain nonprofit organizations.

Existing law imposes a fee for the registration of a motor vehicle. (NRS 482.480) Section 11 of this bill provides that the fee does not apply to an ambulance owned or operated by certain nonprofit organizations.

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

Section 1. NRS 365.220 is hereby amended to read as follows:

365.220 The provisions of this chapter requiring the payment of excise taxes do not apply to:

1. Motor vehicle fuel if it remains in interstate or foreign commerce.
2. Motor vehicle fuel, except aviation fuel, exported from this State by a supplier.
3. Aviation fuel or fuel for jet or turbine-powered aircraft exported from this State by a dealer.
4. Motor vehicle fuel or fuel for jet or turbine-powered aircraft sold to the United States Government for official use of the United States Armed Forces.
5. Motor vehicle fuel, other than aviation fuel, distributed or delivered on the order of the owner, to a supplier, or aviation fuel or fuel for jet or turbine-powered aircraft distributed or delivered on the order of the owner, to a dealer, if the dealer or supplier has furnished security in the amount prescribed in NRS 365.290 and has established to the satisfaction of the Department that the security is sufficient to ensure payment of all excise taxes as they may become due to the State from him under this chapter. Every dealer or supplier who claims an exemption shall report the distributions to the Department in such detail as the Department may require. If he does not do so, the exemption granted in this subsection is void and all fuel is considered distributed in this State subject fully to the provisions of this chapter.
6. Leaded racing fuel. As used in this subsection, "leaded racing fuel" means motor vehicle fuel that contains lead and is produced for motor vehicles that are designed and built for racing and not for operation on a public highway.

7. *Motor vehicle fuel, aviation fuel or fuel for jet or turbine-powered aircraft that is:*

(a) Sold to a nonprofit organization which is created for religious, charitable or educational purposes and which holds a permit to own or operate an ambulance or air ambulance pursuant to chapter 450B of NRS; and

(b) Used in an ambulance, as defined in NRS 450B.040, or an air ambulance, as defined in NRS 450B.030.

Sec. 2. NRS 366.200 is hereby amended to read as follows:

366.200 1. The sale or use of special fuel for any purpose other than to propel a motor vehicle upon the public highways of Nevada is exempt from the application of the tax imposed by NRS 366.190. The exemption provided in this subsection applies only in those cases where the purchasers or the

users of special fuel establish to the satisfaction of the Department that the special fuel purchased or used was used for purposes other than to propel a motor vehicle upon the public highways of Nevada.

2. Sales made to the United States Government or any instrumentality thereof are exempt from the tax imposed by this chapter.

3. Sales made to any state, county, municipality, district or other political subdivision thereof are exempt from the tax imposed by this chapter.

4. Sales made to any person to be used to propel a motor vehicle which is dedicated for exclusive use as part of a system which:

- (a) Operates motor vehicles for public transportation in an urban area;
- (b) Transports persons who pay the established fare; and
- (c) Uses public money to operate the system or acquire new equipment,

↪ are exempt from the tax imposed by this chapter.

5. Sales made to any person for use in operating special mobile equipment are exempt from the tax imposed by this chapter.

6. *The sale and use of special fuel that is:*

(a) *Sold to a nonprofit organization which is created for religious, charitable or educational purposes and which holds a permit to own or operate an ambulance or air ambulance pursuant to chapter 450B of NRS; and*

(b) *Used in an ambulance, as defined in NRS 450B.040, or an air ambulance, as defined in NRS 450B.030,*

↪ *are exempt from the tax imposed by this chapter.*

Sec. 2.5. NRS 371.100 is hereby amended to read as follows:

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

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

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

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

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

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

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

(e) Ambulances, as defined in NRS 450B.040, owned or operated by a nonprofit organization which is created for religious, charitable or educational purposes and which holds a permit to own or operate ambulances pursuant to chapter 450B of NRS.

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

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

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

- (a) Operates vehicles for public transportation in an urban area;
- (b) Transports persons who pay the established fare; and
- (c) Uses public money to operate the system or acquire new equipment,

↪ are exempted from the governmental services tax imposed by this chapter.

Sec. 3. NRS 372.7287 is hereby amended to read as follows:

372.7287 In administering the provisions of NRS 372.326, the Department shall apply the exemption for the sale of tangible personal property to a nonprofit organization created for religious, charitable or educational purposes to include ~~any~~:

1. Any type of motor vehicle that is transferred for use by such a nonprofit organization, whether by sale or lease and regardless of whether title to the vehicle passes to the nonprofit organization at any time during the use of the vehicle ~~[-]~~; and

2. *If the nonprofit organization holds a permit to own or operate an air ambulance pursuant to chapter 450B of NRS, any type of air ambulance, as defined in NRS 450B.030, that is transferred for use by such a nonprofit organization, whether by sale or lease and regardless of whether title to the air ambulance passes to the nonprofit organization at any time during the use of the air ambulance.*

Sec. 4. Chapter 373 of NRS is hereby amended by adding thereto a new section to read as follows:

The provisions of this chapter requiring the payment of taxes on motor vehicle fuel do not apply to motor vehicle fuel that is:

1. *Sold to a nonprofit organization which is created for religious, charitable or educational purposes and which holds a permit to own or operate an ambulance or air ambulance pursuant to chapter 450B of NRS; and*

2. *Used in an ambulance, as defined in NRS 450B.040, or an air ambulance, as defined in NRS 450B.030.*

Sec. 5. NRS 373.030 is hereby amended to read as follows:

373.030 1. In any county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board may by ordinance:

- (a) Create a regional transportation commission; and

(b) Impose a tax on motor vehicle fuel, except aviation fuel, ~~and~~ leaded racing fuel ~~and~~ *motor vehicle fuel exempted pursuant to section 4 of this act*, sold in the county in an amount not to exceed 9 cents per gallon.

2. A tax imposed pursuant to this section is in addition to other motor vehicle fuel taxes imposed pursuant to the provisions of chapter 365 of NRS.

3. As used in this section:

(a) "Aviation fuel" has the meaning ascribed to it in NRS 365.015.

(b) "Leaded racing fuel" means motor vehicle fuel that contains lead and is produced for motor vehicles that are designed and built for racing and not for operation on a public highway.

Sec. 6. NRS 373.065 is hereby amended to read as follows:

373.065 1. Except as otherwise provided in this section, in a county whose population is less than 400,000:

(a) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel ~~and~~ *motor vehicle fuel exempted pursuant to section 4 of this act*, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.180 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.180 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(b) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel ~~and~~ *motor vehicle fuel exempted pursuant to section 4 of this act*, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to NRS 365.190 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.190 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(c) The board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel ~~and~~ *motor vehicle fuel exempted pursuant to section 4 of this act*, sold in the county in an amount equal to the product obtained by multiplying the

amount of the tax imposed pursuant to NRS 365.192 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to NRS 365.192 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

(d) If the board imposes a tax pursuant to paragraph (b) of subsection 1 of NRS 373.030, the board may by ordinance impose:

(1) An excise tax on each gallon of motor vehicle fuel, except aviation fuel, ~~and~~ leaded racing fuel ~~and~~ *motor vehicle fuel exempted pursuant to section 4 of this act*, sold in the county in an amount equal to the product obtained by multiplying the amount of the tax imposed pursuant to paragraph (b) of subsection 1 of NRS 373.030 by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; and

(2) An annual increase in the tax imposed pursuant to subparagraph (1), on the first day of each fiscal year following the fiscal year in which that tax becomes effective, in an amount equal to the sum of the tax imposed pursuant to paragraph (b) of subsection 1 of NRS 373.030 and the tax imposed pursuant to subparagraph (1) during the preceding fiscal year, multiplied by the lesser of 4.5 percent or the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years.

2. A board may not adopt any ordinance authorized by this section unless:

(a) In a county for all or part of which a streets and highways plan has been adopted as a part of the master plan by the county or regional planning commission pursuant to NRS 278.150, the board first:

(1) Imposes a tax pursuant to paragraph (b) of subsection 1 of NRS 373.030 at the maximum rate authorized pursuant to that paragraph; or

(2) Submits to the voters of the county at a general or special election the question of whether to impose a tax pursuant to paragraph (b) of subsection 1 of NRS 373.030 at the maximum rate authorized pursuant to that paragraph; and

(b) A question concerning the imposition of the tax pursuant to this section is first approved by a majority of the registered voters of the county voting upon the question which the board may submit to the voters at any general election. The Committee on Local Government Finance shall annually provide to each city clerk, county clerk and district attorney in this State forms for submitting a question to the registered voters of a county pursuant to this paragraph. Any question submitted to the registered voters of

a county pursuant to this paragraph must be in the form most recently provided by the Committee on Local Government Finance.

3. An ordinance adopted pursuant to this section in a county whose population is less than 100,000:

(a) Must be reapproved, in addition to the approval required by paragraph (b) of subsection 2, at least once every 8 years by a majority of the registered voters of the county voting on the question which the board may submit to the voters at any general election; and

(b) Expires by limitation no later than the last day of the 8th calendar year following the calendar year in which the ordinance was:

(1) Approved in accordance with paragraph (b) of subsection 2; or

(2) Most recently reapproved in accordance with this subsection,

↪ whichever occurs later.

4. Any ordinance authorized by this section may be adopted in combination with any other ordinance authorized by this section. Each tax imposed pursuant to this section is in addition to any other motor vehicle fuel taxes imposed pursuant to the provisions of this chapter and chapter 365 of NRS. Upon adoption of an ordinance authorized by this section, no further action by the board is necessary to effectuate the annual increases before the ordinance expires by limitation.

5. Any ordinance adopted pursuant to this section must:

(a) Become effective on the first day of the first calendar quarter beginning not less than 90 days after the adoption of the ordinance; and

(b) If the board has created a regional transportation commission in the county, require the commission:

(1) To review, at a public meeting conducted after the provision of public notice and before the effective date of each annual increase imposed by the ordinance:

(I) The amount of that increase and the accuracy of its calculation;

(II) The amounts of any annual increases imposed by the ordinance in previous years and the revenue collected pursuant to those increases;

(III) Any improvements to the regional system of transportation resulting from revenue collected pursuant to any annual increases imposed by the ordinance in previous years; and

(IV) Any other information relevant to the effect of the annual increases on the public; and

(2) To submit to the board any information the commission receives suggesting that the annual increase should be adjusted.

6. Any ordinance adopted pursuant to:

(a) Paragraph (a) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.180; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.180 which becomes effective after the adoption of that ordinance.

(b) Paragraph (b) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.190; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.190 which becomes effective after the adoption of that ordinance.

(c) Paragraph (c) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to NRS 365.192; and

(2) Expire by limitation no later than the effective date of any increase or decrease in the amount of the tax imposed pursuant to NRS 365.192 which becomes effective after the adoption of that ordinance.

(d) Paragraph (d) of subsection 1 must:

(1) Require the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to that ordinance in the same proportions and manner as the allocation, disbursement and use in the county of the proceeds of the tax imposed pursuant to paragraph (b) of subsection 1 of NRS 373.030; and

(2) Expire by limitation no later than the effective date of any subsequent ordinance increasing or decreasing the amount of the tax imposed in that county pursuant to paragraph (b) of subsection 1 of NRS 373.030.

Sec. 7. NRS 374.7315 is hereby amended to read as follows:

374.7315 In administering the provisions of NRS 374.3305, the Department shall apply the exemption for the sale of tangible personal property to a nonprofit organization created for religious, charitable or educational purposes to include ~~any~~:

1. Any type of motor vehicle that is transferred for use by such a nonprofit organization, whether by sale or lease and regardless of whether title to the vehicle passes to the nonprofit organization at any time during the use of the vehicle ~~[-]~~; and

2. *If the nonprofit organization holds a permit to own or operate an air ambulance pursuant to chapter 450B of NRS, any type of air ambulance, as defined in NRS 450B.030, that is transferred for use by such a nonprofit organization, whether by sale or lease and regardless of whether title to the air ambulance passes to the nonprofit organization at any time during the use of the air ambulance.*

Sec. 8. ~~NRS 482.3795 is hereby amended to read as follows:~~

~~482.3795 1. The Department may issue special license plates and registration certificates to residents of Nevada for a fire truck or ambulance pursuant to this section. Except as otherwise provided in subsection 3, the fire truck or ambulance must not be used for general transportation, but may be used for musters, exhibitions, parades or similar activities.~~

~~2. In lieu of the annual registration and fees required by this chapter, and of the governmental services tax imposed by chapter 371 of NRS, the owner of a fire truck or ambulance may submit:~~

~~(a) An affidavit to the Department indicating that the fire truck [.] or ambulance:~~

~~(1) Will only be used for the permitted purposes enumerated in subsection 1;~~

~~(2) Has been inspected and found safe to be operated on the highways of this State; and~~

~~(3) Qualifies as a fire truck pursuant to regulations adopted by the Department for this purpose [.] or qualifies as an ambulance pursuant to chapter 450B of NRS.~~

~~(b) The following fees for the issuance of these license plates:~~

~~(1) For the first issuance \$15~~

~~(2) For a renewal sticker \$~~

~~3. If the owner elects to use the fire truck or ambulance as general transportation, he shall pay the regular annual registration and fees prescribed by law and the governmental services tax imposed by chapter 371 of NRS.~~

~~4. License plates issued pursuant to this section must bear the inscription "Fire Truck" or "Ambulance," as appropriate, and the plates must be numbered consecutively.~~

~~5. The cost of the die and the modifications necessary for the issuance of a license plate pursuant to this section must be paid from private sources without any expense to the State of Nevada.~~

~~6. As used in this section, "ambulance" means an ambulance, as defined in NRS 450B.040, owned or operated by a nonprofit organization which is created for religious, charitable or educational purposes and which holds a permit to own or operate an ambulance pursuant to chapter 450B of NRS.] (Deleted by amendment.)~~

Sec. 8.5. NRS 482.268 is hereby amended to read as follows:

482.268 ~~1~~ 1. Except as otherwise provided in this section, in addition to any other applicable fee, there must be paid to the Department a fee of 50 cents for each license plate issued for a motor vehicle, trailer or semitrailer. The fee paid pursuant to this section must be deposited with the State Treasurer for credit to the Fund for Prison Industries to defray the cost of producing the license plate.

2. The fee imposed by this section does not apply to an ambulance, as defined in NRS 450B.040, owned or operated by a nonprofit organization which is created for religious, charitable or educational purposes and which

holds a permit to own or operate an ambulance pursuant to chapter 450B of NRS.

Sec. 9. (Deleted by amendment.)

Sec. 9.5. NRS 482.429 is hereby amended to read as follows:

482.429 ~~For~~ 1. Except as otherwise provided in this section, for its services under this chapter, the Department shall charge and collect the following fees:

For each certificate of title issued for a vehicle present or registered in this State	\$20.00
For each duplicate certificate of title issued	20.00
For each certificate of title issued for a vehicle not present in or registered in this State	35.00
For the processing of each dealer's or rebuilder's report of sale submitted to the Department	8.25
For the processing of each long-term lessor's report of lease submitted to the Department	8.25
For the processing of each endorsed certificate of title or statement submitted to the Department upon the sale of a used or rebuilt vehicle in this State by a person who is not a dealer or rebuilder	8.25

2. The fees imposed by this section for each certificate of title or duplicate certificate of title issued for a vehicle present or registered in this State do not apply to an ambulance, as defined in NRS 450B.040, owned or operated by a nonprofit organization which is created for religious, charitable or educational purposes and which holds a permit to own or operate an ambulance pursuant to chapter 450B of NRS.

Sec. 10. NRS 482.480 is hereby amended to read as follows:

482.480 ~~There~~ Except as otherwise provided in NRS 482.503, there must be paid to the Department for the registration or the transfer or reinstatement of the registration of motor vehicles, trailers and semitrailers, fees according to the following schedule:

1. Except as otherwise provided in this section, for each stock passenger car and each reconstructed or specially constructed passenger car registered to a person, regardless of weight or number of passenger capacity, a fee for registration of \$33.

2. Except as otherwise provided in subsection 3:

(a) For each of the fifth and sixth such cars registered to a person, a fee for registration of \$16.50.

(b) For each of the seventh and eighth such cars registered to a person, a fee for registration of \$12.

(c) For each of the ninth or more such cars registered to a person, a fee for registration of \$8.

3. The fees specified in subsection 2 do not apply:

(a) Unless the person registering the cars presents to the Department at the time of registration the registrations of all of the cars registered to him.

(b) To cars that are part of a fleet.

4. For every motorcycle, a fee for registration of \$33 and for each motorcycle other than a trimobile, an additional fee of \$6 for motorcycle safety. The additional fee must be deposited in the State Highway Fund for credit to the Account for the Program for the Education of Motorcycle Riders.

5. For each transfer of registration, a fee of \$6 in addition to any other fees.

6. Except as otherwise provided in subsection 9 of NRS 485.317, to reinstate the registration of a motor vehicle suspended pursuant to that section:

(a) A fee of \$250 for a registered owner who failed to have insurance on the date specified in the form for verification that was mailed by the Department pursuant to subsection 3 of NRS 485.317; or

(b) A fee of \$50 for a registered owner of a dormant vehicle who cancelled the insurance coverage for that vehicle or allowed the insurance coverage for that vehicle to expire without first cancelling the registration for the vehicle in accordance with subsection 3 of NRS 485.320,

➡ both of which must be deposited in the Account for Verification of Insurance which is hereby created in the State Highway Fund. The money in the Account must be used to carry out the provisions of NRS 485.313 to 485.318, inclusive.

7. For every travel trailer, a fee for registration of \$27.

8. For every permit for the operation of a golf cart, an annual fee of \$10.

9. For every low-speed vehicle, as that term is defined in NRS 484.527, a fee for registration of \$33.

10. To reinstate the registration of a motor vehicle that is suspended pursuant to NRS 482.451, a fee of \$33.

Sec. 11. NRS 482.503 is hereby amended to read as follows:

482.503 The registration fee imposed by this chapter does not apply to ~~vehicles~~ :

1. A vehicle owned by the United States, the State of Nevada, any political subdivision of the State of Nevada, or any county, municipal corporation, city, unincorporated town or school district in the State of Nevada.

2. An ambulance, as defined in NRS 450B.040, owned or operated by a nonprofit organization which is created for religious, charitable or educational purposes and which holds a permit to own or operate an ambulance pursuant to chapter 450B of NRS.

~~[Sec. 10.]~~ *Sec. 12. This act becomes effective on July 1, ~~[2007.]~~ 2009.*

Senator Raggio moved the adoption of the amendment.

Remarks by Senator Raggio.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

UNFINISHED BUSINESS
CONSIDERATION OF ASSEMBLY AMENDMENTS

Senate Bill No. 228.

The following Assembly amendment was read:

Amendment No. 907.

"SUMMARY—Enacts provisions related to certain medical review committees. (BDR 40-986)"

"AN ACT relating to emergency medical services; enacting provisions related to the access, sharing and confidentiality of certain information by various medical review committees; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law grants certain privileges to various medical review committees in regard to the nondisclosure of information. (NRS 49.117-49.123) This bill enacts provisions regarding the access, sharing and confidentiality of certain information by various medical review committees.

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. *A medical review committee is entitled to access to ~~the~~
~~(a) Any~~ any autopsy records relating to a death under ~~review~~; and
~~(b) Any medical records of a patient or decedent under~~ review.*
2. *Each organization represented on a medical review committee to review the medical care or death of a person shall share with other members of the committee information in its possession concerning the person who is the subject of the review and any other information deemed by the organization to be pertinent to the review.*
3. ~~*Information acquired by, and records of, a medical review committee to review the medical care or death of a person are confidential, must not be disclosed, and are not subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding. Any autopsy records provided to a medical review committee pursuant to this section are privileged records for the purposes of NRS 49.119 and 49.121.*~~
4. *As used in this section, "medical review committee" means a medical review committee of a county or district board of health that certifies, licenses or regulates providers of emergency medical services pursuant to the provisions of this chapter, but only when functioning as a peer review committee.*

Senator Washington moved that the Senate concur in the Assembly amendment to Senate Bill No. 228.

Remarks by Senator Washington.

Motion carried by a constitutional majority.

Bill ordered enrolled.

Senate Bill No. 201.

The following Assembly amendment was read:

Amendment No. 796.

"SUMMARY—Revises provisions governing public works. (BDR 28-526)"

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

Legislative Counsel's Digest:

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

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

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

construction of the public work. A construction manager as agent is prohibited from taking part in the design or construction of the public work.

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

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

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

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

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

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

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

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

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

(b) *To construct the public work.*

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

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

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

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

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

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

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

(a) *A description of the public work;*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. A final proposal must include, without limitation:

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

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

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

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

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

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

Sec. 7. 1. The panel appointed by the public body pursuant to section 5 of this act shall evaluate and assign a score to each of the final

proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for final proposals. The panel shall interview the two or three applicants whose final proposals received the highest scores. After conducting such interviews, the panel shall rank the applicants based on the final proposals and interviews, which must be given equal weight.

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

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

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

~~(a) - 4~~ for:

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

(b) A fixed price; or

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

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

(a) Shall terminate negotiations with that applicant; and

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

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

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

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

of construction of the public work, if the actual price is less than the guaranteed maximum price.

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

1. Must comply with the provisions of NRS 338.020 to 338.090, inclusive.
2. Must specify a date by which performance of the work required by the contract must be completed.

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

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

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

6. ~~Must require that the construction manager at risk to whom a contract is awarded assume overall responsibility for ensuring that the preconstruction or construction of the public work, as applicable, is completed in a satisfactory manner.~~

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

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

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

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

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

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

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

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

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

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

(a) Must:

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

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

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

(b) May enter into a contract with a public body to assist in the planning, scheduling and management of the construction of a public work without assuming any responsibility for the cost, quality or timely completion of the construction of the public work. A construction manager as agent who enters into a contract with a public body pursuant to this section may not take part in the design or construction of the public work.

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

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

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

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

2. A constructability review required pursuant to subsection 1 must be performed by an architect registered pursuant to chapter 623 of NRS, a contractor licensed pursuant to chapter 624 of NRS or a professional

engineer licensed pursuant to chapter 625 of NRS and must include, without limitation:

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

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

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

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

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

(a) NRS 338.1377 to 338.139, inclusive;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The bidder is not responsive or responsible;

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

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

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

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

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

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

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

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

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

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

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

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

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

9. This section does not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The bidder is not responsive or responsible;

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

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

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

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

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

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

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

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

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

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

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

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

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

9. This section does not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) The bidder is not responsive or responsible;
- (b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or
- (c) The public interest would be served by such a rejection.

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

- (a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;
- (b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);
- (c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and
- (d) The contract is awarded to the lowest responsive and responsible bidder.

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

- (a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;
- (b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

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

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

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

8. This section does not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the

authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

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

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

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

- (a) The bidder is not responsive or responsible;
- (b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or
- (c) The public interest would be served by such a rejection.

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

- (a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;
- (b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);
- (c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and
- (d) The contract is awarded to the lowest responsive and responsible bidder.

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

- (a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;
- (b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;
- (c) An estimate of the cost of administrative support for the persons assigned to the public work;
- (d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and
- (e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

- (a) Any utility subject to the provisions of chapter 318 or 710 of NRS;
- (b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;
- (c) Normal maintenance of the property of a school district;
- (d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993; ~~or~~
- (e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~[-]~~;

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

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

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

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

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

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

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

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

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

- 1. Construct the public work; or
- 2. Assume overall responsibility for ensuring that the construction of the public work is completed in a satisfactory manner.

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

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

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

Amendment No. 1028.

"SUMMARY—Revises provisions governing public works. (BDR 28-526)"

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

Legislative Counsel's Digest:

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

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

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

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

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

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

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

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

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

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

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

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

(b) *To construct the public work.*

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

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

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

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

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

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

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

(a) *A description of the public work;*

(b) *An estimate of the cost of construction;*

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

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

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

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

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

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

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

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

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

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

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

(e) *Evidence that the applicant has obtained or has the ability to obtain such insurance as may be required by law; and*

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

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

(2) *Disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333.*

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

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

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

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

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

4. *After the panel ranks the statements of qualifications, the public body shall:*

(a) *Make available to the public the rankings of the applicants; and*

(b) *Except as otherwise provided in subsection 5, select at least the two but not more than the five applicants that the panel determined to be most*

qualified as finalists to submit final proposals to the public body pursuant to section 6 of this act.

5. If the public body did not receive at least two statements of qualifications from applicants that the panel determines to be qualified pursuant to this section and section 3 of this act, the public body may not contract with a construction manager at risk.

Sec. 6. 1. After the finalists are selected pursuant to paragraph (b) of subsection 4 of section 5 of this act, the public body shall provide to each finalist a request for final proposals. The request for final proposals must:

(a) Set forth the date by which final proposals must be submitted to the public body;

(b) Set forth the proposed forms of the contract to assist in the preconstruction of the public work and the contract to construct the public work that include, without limitation, the proposed terms and general conditions of the contracts; and

(c) Set forth the selection criteria and relative weight of the selection criteria that will be used to evaluate the final proposals.

2. A final proposal must include, without limitation:

(a) The professional qualifications and experience of the applicant, including, without limitation, the resumes of any employees of the applicant who will be managing the preconstruction and construction of the public work;

(b) The performance history of the applicant concerning other recent, similar projects completed by the applicant, if any;

(c) The safety programs established and the safety records accumulated by the applicant;

(d) The proposed plan of the applicant to manage the preconstruction and construction of the public work, which plan sets forth in detail the ability of the applicant to provide preconstruction services and to construct the public work; and

(e) A proposed plan of the applicant for the selection of any necessary subcontractors.

Sec. 7. 1. The panel appointed by the public body pursuant to section 5 of this act shall evaluate and assign a score to each of the final proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for final proposals. The panel shall interview the two or three applicants whose final proposals received the highest scores. After conducting such interviews, the panel shall rank the applicants based on the final proposals and interviews, which must be given equal weight.

2. Upon receipt of the final rankings of the applicants from the panel, the public body shall enter into negotiations with the most qualified applicant determined pursuant to subsection 1 for a contract for preconstruction services. If the public body is unable to negotiate a contract with the most qualified applicant at an amount of compensation that the public body and

the most qualified applicant determine to be fair and reasonable, the public body shall terminate negotiations with that applicant. The public body may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached or a determination is made by the public body to reject all applicants.

3. The public body shall make available to the applicants and the public the results of the evaluations of final proposals and interviews conducted pursuant to subsection 1 and the final rankings of the applicants.

Sec. 8. 1. If a public body enters into a contract with a construction manager at risk for preconstruction services pursuant to section 7 of this act, after the public body has finalized the design for the public work, the public body shall enter into negotiations with the construction manager at risk for a contract to construct the public work for the public body for:

- (a) The cost of the work, plus a fee, with a guaranteed maximum price;*
- (b) A fixed price; or*
- (c) A fixed price plus reimbursement for overhead and other costs and expenses related to the construction of the public work.*

2. If the public body is unable to negotiate a satisfactory contract with the construction manager at risk to construct the public work, the public body:

- (a) Shall terminate negotiations with that applicant; and*
- (b) May award the contract for the public work:*
 - (1) If the public body is not a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive.*
 - (2) If the public body is a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive, or 338.143 to 338.148, inclusive, and section 14 of this act.*

Sec. 9. A contract entered into pursuant to section 8 of this act that is for a guaranteed maximum price may include a provision that authorizes the construction manager at risk to receive all or part of any difference between the guaranteed maximum price set forth in the contract and the actual price of construction of the public work, if the actual price is less than the guaranteed maximum price.

Sec. 10. A contract awarded to a construction manager at risk pursuant to section 7 or 8 of this act:

- 1. Must comply with the provisions of NRS 338.020 to 338.090, inclusive.*
- 2. Must specify a date by which performance of the work required by the contract must be completed.*
- 3. May set forth the terms by which the construction manager at risk agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the construction manager at risk.*
- 4. Must require that the construction manager at risk to whom a contract is awarded assume overall responsibility for ensuring that the*

preconstruction or construction of the public work, as applicable, is completed in a satisfactory manner.

5. May include such additional provisions as may be agreed upon by the public body and the construction manager at risk.

Sec. 11. A construction manager at risk who enters into a contract for the construction of a public work pursuant to section 8 of this act:

1. Is responsible for contracting for the services of any necessary subcontractor, supplier or independent contractor necessary for the construction of the public work and for the performance of and payment to any such subcontractors, suppliers or independent contractors.

2. If the public work involves the construction of a fixed work that is described in subsection 2 of NRS 624.215, shall perform not less than 25 percent of the construction of the fixed work himself or using his own employees.

3. If the public work involves the construction of a building or structure that is described in subsection 3 of NRS 624.215, may perform himself or using his own employees as much of the construction of the building or structure that the construction manager at risk is able to demonstrate that he or his own employees have performed on similar projects.

Sec. 12. 1. If a construction manager at risk to whom a contract for the construction of a public work is awarded pursuant to section 8 of this act wishes to enter into a contract with a subcontractor to provide materials, equipment, work or other services on the public work, the subcontractor must be:

(a) Licensed pursuant to chapter 624 of NRS; and

(b) Selected by the construction manager at risk based on the process of competitive bidding set forth in the applicable provisions of NRS 338.1373 to 338.148, inclusive.

2. A construction manager at risk to whom a contract for the construction of a public work is awarded pursuant to section 8 of this act shall submit to the public body that awarded the contract a list containing the names of each subcontractor with whom the construction manager at risk entered into a contract for the provision of materials, equipment, work or other services on the public work.

Sec. 13. 1. A construction manager as agent:

(a) Must:

(1) Be a contractor licensed pursuant to chapter 624 of NRS;

(2) Hold a certificate of registration to practice architecture, interior design or residential design pursuant to chapter 623 of NRS; or

(3) Be licensed as a professional engineer pursuant to chapter 625 of NRS.

(b) May enter into a contract with a public body to assist in the planning, scheduling and management of the construction of a public work without assuming any responsibility for the cost, quality or timely completion of the construction of the public work. A construction manager as agent who enters

into a contract with a public body pursuant to this section may not take part in the design or construction of the public work.

2. A contract between a public body and a construction manager as agent is not required to be awarded by competitive bidding.

Sec. 14. 1. Before a local government or its authorized representative advertises for bids for a contract for a public work, the local government or its authorized representative shall perform a review of the approved plans and specifications to determine if the plans and specifications are complete and contain all necessary information and specifications to construct the public work, if:

(a) The plans and specifications are to be used for the first time on a public work; and

(b) The plans and specifications are for a public work that ~~is a building at least three stories in height.~~ has an estimated cost which exceeds \$10,000,000.

2. A constructability review required pursuant to subsection 1 must be performed by an architect registered pursuant to chapter 623 of NRS, a contractor licensed pursuant to chapter 624 of NRS or a professional engineer licensed pursuant to chapter 625 of NRS and must include, without limitation:

(a) A determination of whether a competent contractor would be able to construct the public work based on the approved plans and specifications; and

(b) A review of the approved plans and specifications for the public work for completeness, clarity and economic feasibility.

3. If the local government or its authorized representative does not employ a person who has the expertise to perform a constructability review as described in subsection 2, the local government or its authorized representative must contract with an independent third party who is an architect registered pursuant to chapter 623 of NRS, a contractor licensed pursuant to chapter 624 of NRS or a professional engineer licensed pursuant to chapter 625 of NRS to perform the constructability review. A contract entered into pursuant to this section between a local government or its authorized representative and an independent third party is not required to be awarded by competitive bidding.

Sec. 15. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive;

(b) NRS 338.143 to 338.148, inclusive ~~[- or -]~~, and section 14 of this act;

(c) NRS 338.1711 to 338.1727, inclusive ~~[-]~~; or

(d) Sections 2 to 12, inclusive, of this act.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 and 338.1711 to 338.1727, inclusive, and sections 2 to 12, inclusive, of this act, do not apply with

respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

Sec. 16. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993; ~~for~~

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~and~~;

(f) *A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to section 14 of this act; or*

(g) *The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to sections 2 to 12, inclusive, of this act.*

Sec. 17. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993; ~~or~~

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~+~~;

(f) *A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to section 14 of this act; or*

(g) *The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to sections 2 to 12, inclusive, of this act.*

Sec. 18. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8 and NRS 338.1907, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 and 338.1446.

(c) Divide a project work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993; ~~or~~

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~+~~;

(f) *A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to section 14 of this act; or*

(g) *The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to sections 2 to 12, inclusive, of this act.*

Sec. 19. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work

will be performed for bids for the public work. If no qualified newspaper is published within the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation within the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 or 338.1446.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993; ~~for~~

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~to~~;

(f) *A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to section 14 of this act; or*

(g) *The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to sections 2 to 12, inclusive, of this act.*

Sec. 20. NRS 338.1711 is hereby amended to read as follows:

338.1711 1. Except as otherwise provided in this section and NRS 338.161 to 338.168, inclusive, *and sections 2 to 12, inclusive, of this act*, a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds \$100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body has approved the use of a design-build team for the design and construction of the public work and the public work:

(a) Is the construction of a park and appurtenances thereto, the rehabilitation or remodeling of a public building, or the construction of an addition to a public building; or

(b) Has an estimated cost which exceeds \$10,000,000.

Sec. 21. NRS 338.1717 is hereby amended to read as follows:

338.1717 A public body may employ a registered architect, *general contractor, construction manager as agent*, landscape architect or licensed professional engineer as a consultant to assist the public body in overseeing the construction of a public work. An architect, *general contractor, construction manager as agent*, landscape architect or engineer so employed shall not:

1. Construct the public work; or
2. Assume overall responsibility for ensuring that the construction of the public work is completed in a satisfactory manner.

Sec. 22. 1. This section and sections 1 to 16, inclusive, 18, 20 and 21 of this act become effective on October 1, 2007.

2. Sections 16 and 18 of this act expire by limitation on April 30, 2013.

3. Sections 17 and 19 of this act become effective on May 1, 2013.

Senator Hardy moved that the Senate do not concur in the Assembly amendments to Senate Bill No. 201.

Remarks by Senator Hardy.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 234.

The following Assembly amendment was read:

Amendment No. 1032.

"SUMMARY—~~[Provides exception to competitive bidding procedures for certain contracts relating to redevelopment areas. (BDR 28-490)]~~
Revises provisions governing the division of the proceeds of certain taxes. (BDR 22-490)

"AN ACT relating to ~~[public works; exempting contracts for certain projects within redevelopment areas from procedures for competitive bidding.]~~ redevelopment; providing that the proceeds of taxes which are levied by or for the benefit of a school district must be excluded from certain calculations used to determine the revenue that is allocable to a redevelopment agency from the imposition of certain taxes; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~Existing law requires that contracts for public works projects be awarded through procedures for competitive bidding. (NRS 338.1373-338.148) Existing law authorizes public bodies to redevelop blighted areas. (Chapter 279 of NRS) This bill exempts contracts for certain public improvement projects from procedures for competitive bidding. The projects exempted are those: (1) constructed within a redevelopment area by a private developer for the benefit of a private development that consists of one or more buildings for which the estimated cost is \$45 million or more; (2) that a legislative body has determined, at a public hearing, directly benefit a redevelopment area, promote efficiency, coordination and economy in design and construction, and mitigate any adverse effect upon the redevelopment~~

~~area that is caused by the private development; (3) that are adjacent or appurtenant to the private development; and (4) for which the developer will receive monetary compensation from a public body as reimbursement for a portion of the costs of the project. This bill also provides that such contracts are subject to the prevailing wage requirements of chapter 338 of NRS.]~~

Under existing law, a redevelopment plan may contain a provision for the allocation of a certain portion of the proceeds of certain ad valorem taxes to a redevelopment agency. (NRS 279.386, 279.674-279.685) This bill provides that, in the calculations prescribed to determine the amount of levied taxes that are allocable to a redevelopment agency, taxes that are levied by or for the benefit of a school district must be excluded.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Delete existing sections 1 through 8 of this bill and replace with the following new sections 1 through 4:

Section 1. NRS 279.676 is hereby amended to read as follows:

279.676 1. Any redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in the redevelopment area each year by or for the benefit of the State, any city, county, district or other public corporation, after the effective date of the ordinance approving the redevelopment plan, must be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment area as shown upon the assessment roll used in connection with the taxation of the property by the taxing agency, last equalized before the effective date of the ordinance, must be allocated to and when collected must be paid into the funds of the respective taxing agencies as taxes by or for such taxing agencies on all other property are paid. To allocate taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment area on the effective date of the ordinance but to which the territory has been annexed or otherwise included after the effective date, the assessment roll of the county last equalized on the effective date of the ordinance must be used in determining the assessed valuation of the taxable property in the redevelopment area on the effective date. If property which was shown on the assessment roll used to determine the amount of taxes allocated to the taxing agencies is transferred to the State and becomes exempt from taxation, the assessed valuation of the exempt property as shown on the assessment roll last equalized before the date on which the property was transferred to the State must be subtracted from the assessed valuation used to determine the amount of revenue allocated to the taxing agencies.

(b) Except as otherwise provided in paragraphs (c) and (d) and NRS 540A.265, that portion of the levied taxes each year in excess of the amount set forth in paragraph (a) must be allocated to and when collected

must be paid into a special fund of the redevelopment agency to pay the costs of redevelopment and to pay the principal of and interest on loans, money advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, incurred by the redevelopment agency to finance or refinance, in whole or in part, redevelopment. Unless the total assessed valuation of the taxable property in a redevelopment area exceeds the total assessed value of the taxable property in the redevelopment area as shown by the assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan, less the assessed valuation of any exempt property subtracted pursuant to paragraph (a), all of the taxes levied and collected upon the taxable property in the redevelopment area must be paid into the funds of the respective taxing agencies. When the redevelopment plan is terminated pursuant to the provisions of NRS 279.438 and 279.439 and all loans, advances and indebtedness, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the redevelopment area must be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(c) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to a tax rate levied by a taxing agency to produce revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness that was approved by the voters of the taxing agency on or after November 5, 1996, must be allocated to and when collected must be paid into the debt service fund of that taxing agency.

(d) That portion of the taxes in excess of the amount set forth in paragraph (a) that is attributable to a new or increased tax rate levied by a taxing agency and was approved by the voters of the taxing agency on or after November 5, 1996, must be allocated to and when collected must be paid into the appropriate fund of the taxing agency.

(e) The calculations set forth in paragraphs (a) to (d), inclusive, for the division of the proceeds of taxes must exclude the proceeds of any taxes levied by or for the benefit of a school district.

2. Except as otherwise provided in subsection 3, in any fiscal year, the total revenue paid to a redevelopment agency must not exceed:

(a) In a municipality whose population is 100,000 or more, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 10 percent of the total assessed valuation of the municipality.

(b) In a municipality whose population is 25,000 or more but less than 100,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 15 percent of the total assessed valuation of the municipality.

(c) In a municipality whose population is less than 25,000, an amount equal to the combined tax rates of the taxing agencies for that fiscal year multiplied by 20 percent of the total assessed valuation of the municipality.

↪ If the revenue paid to a redevelopment agency must be limited pursuant to paragraph (a), (b) or (c) and the redevelopment agency has more than one redevelopment area, the redevelopment agency shall determine the allocation to each area. Any revenue which would be allocated to a redevelopment agency but for the provisions of this section must be paid into the funds of the respective taxing agencies.

3. The taxing agencies shall continue to pay to a redevelopment agency any amount which was being paid before July 1, 1987, and in anticipation of which the agency became obligated before July 1, 1987, to repay any bond, loan, money advanced or any other indebtedness, whether funded, refunded, assumed or otherwise incurred.

4. For the purposes of this section, the assessment roll last equalized before the effective date of the ordinance approving the redevelopment plan is the assessment roll in existence on March 15 immediately preceding the effective date of the ordinance.

Sec. 2. Except as otherwise provided in section 3 of this act, the provisions of NRS 279.676, as amended by section 1 of this act, apply with respect to the division of taxes, or the proceeds of taxes, pursuant to or in connection with a redevelopment plan that is adopted on or after July 1, 2007.

Sec. 3. 1. The provisions of NRS 279.676, as amended by section 1 of this act, do not apply to modify, directly or indirectly, any taxes levied or revenues pledged in such a manner as to impair adversely any outstanding obligations of a community or redevelopment agency, including, without limitation, bonds, medium-term financing, letters of credit and any other financial obligation, until all such obligations have been discharged in full or provision for their payment and redemption has been fully made.

2. As used in this section:

(a) "Community" has the meaning ascribed to it in NRS 279.392.

(b) "Redevelopment agency" has the meaning ascribed to the term "agency" in NRS 279.386.

Sec. 4. This act becomes effective on July 1, 2007.

Senator Hardy moved that the Senate do not concur in the Assembly amendment to Senate Bill No. 234.

Remarks by Senator Hardy.

Motion carried.

Bill ordered transmitted to the Assembly.

Senate Bill No. 516.

The following Assembly amendment was read:

Amendment No. 895.

"SUMMARY—Revises provisions governing the compensation of certain elected county officers. (BDR 20-225)"

"AN ACT relating to public officers; revising the provisions governing the compensation of certain elected county officers; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill increases the *maximum* amount at which the board of county commissioners may set the annual salary for a county commissioner of that county. Section 1 also increases *by 3 percent for each of Fiscal Years 2007-2008, 2008-2009, 2009-2010 and 2010-2011*, the compensation to be paid to certain other elected county officers. (NRS 245.043) Pursuant to section 3 of this bill, ~~those~~ *the* increases *applicable to: (1) Fiscal Year 2007-2008, become effective on July 1, 2007; (2) Fiscal Year 2008-2009, become effective on July 1, 2008; (3) Fiscal Year 2009-2010, become effective on July 1, 2009; and (4) Fiscal Year 2010-2011, become effective on July 1, 2010.* However, section 4 of this bill authorizes a county that has not commenced payment of the increased annual salaries to request and receive a waiver from payment of the increases based on insufficient financial resources. If a waiver is granted for ~~Fiscal Year 2007-2008,~~ *any fiscal year*, section 4 prohibits retroactive payment of the increases for that fiscal year. ~~If a waiver is granted for any subsequent fiscal year, however, a county may pay the increases retroactively for those fiscal years.~~ Section 1 also changes the salary classification of Storey County, thereby increasing the amount of the annual salaries paid to its elected county officers. Section 2 of this bill clarifies that county commissioners are eligible for longevity pay. (NRS 245.044)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 245.043 is hereby amended to read as follows:

245.043 1. As used in this section:

(a) "County" includes Carson City.

(b) "County commissioner" includes the Mayor and supervisors of Carson City.

2. Except as otherwise provided by any special law, the elected officers of the counties of this State are entitled to receive *for the appropriate fiscal year*, annual salaries in the base amounts specified in the following table. The annual salaries are in full payment for all services required by law to be performed by such officers. Except as otherwise provided by law, all fees and commissions collected by such officers in the performance of their duties must be paid into the county treasury each month without deduction of any nature.

		ANNUAL SALARIES						
Class	County	District Attorney	Sheriff	County Clerk	County Assessor	County Recorder	County Treasurer	Public Administrator
1	Clark	\$155,745	\$134,263	\$91,138	\$91,138	\$91,138	\$91,138	\$91,138
f		~~\$181,004~~	~~\$156,892~~	~~\$106,498~~	~~\$106,498~~	~~\$106,498~~	~~\$106,498~~	~~\$106,498~~
	<i>FY 2007-2008</i>	<i>\$160,417</i>	<i>\$138,291</i>	<i>\$93,872</i>	<i>\$93,872</i>	<i>\$93,872</i>	<i>\$93,872</i>	<i>\$93,872</i>
	<i>FY 2008-2009</i>	<i>163,230</i>	<i>142,440</i>	<i>96,668</i>	<i>96,668</i>	<i>96,668</i>	<i>96,668</i>	<i>96,668</i>
	<i>FY 2009-2010</i>	<i>170,187</i>	<i>146,713</i>	<i>99,589</i>	<i>99,589</i>	<i>99,589</i>	<i>99,589</i>	<i>99,589</i>
	<i>FY 2010-2011</i>	<i>175,293</i>	<i>151,114</i>	<i>102,577</i>	<i>102,577</i>	<i>102,577</i>	<i>102,577</i>	<i>102,577</i>

2	Washoe	~~137,485~~	110,632	83,543	83,543	83,543	83,543	83,543
<i>f</i>		~~160,652~~	~~120,278~~	~~97,623~~	~~97,623~~	~~97,623~~	~~97,623~~	~~97,623~~
	<u>FY 2007-2008</u>	141,610	113,951	86,049	86,049	86,049	86,049	86,049
	<u>FY 2008-2009</u>	145,858	117,370	88,630	88,630	88,630	88,630	88,630
	<u>FY 2009-2010</u>	150,234	120,891	91,289	91,289	91,289	91,289	91,289
	<u>FY 2010-2011</u>	154,741	124,518	94,028	94,028	94,028	94,028	94,028
3	Carson City	~~198,707~~	81,846	65,012	65,012	65,012	65,012	65,012
<i>f</i>		~~115,343~~	~~95,640~~	~~75,069~~	~~75,069~~	~~75,069~~	~~75,069~~	~~75,069~~
	<u>FY 2007-2008</u>	101,668	84,301	66,962	66,962	66,962	66,962	66,962
	<u>FY 2008-2009</u>	104,718	86,830	68,971	68,971	68,971	68,971	68,971
	<u>FY 2009-2010</u>	107,860	89,435	71,040	71,040	71,040	71,040	71,040
	<u>FY 2010-2011</u>	111,096	92,118	73,171	73,171	73,171	73,171	73,171
	Churchill	~~198,707~~	81,846	65,012	65,012	65,012	65,012	65,012
<i>f</i>		~~115,343~~	~~95,640~~	~~75,069~~	~~75,069~~	~~75,069~~	~~75,069~~	~~75,069~~
	<u>FY 2007-2008</u>	101,668	84,301	66,962	66,962	66,962	66,962	66,962
	<u>FY 2008-2009</u>	104,718	86,830	68,971	68,971	68,971	68,971	68,971
	<u>FY 2009-2010</u>	107,860	89,435	71,040	71,040	71,040	71,040	71,040
	<u>FY 2010-2011</u>	111,096	92,118	73,171	73,171	73,171	73,171	73,171
	Douglas	~~198,707~~	81,846	65,012	65,012	65,012	65,012	65,012
<i>f</i>		~~115,343~~	~~95,640~~	~~75,069~~	~~75,069~~	~~75,069~~	~~75,069~~	~~75,069~~
	<u>FY 2007-2008</u>	101,668	84,301	66,962	66,962	66,962	66,962	66,962
	<u>FY 2008-2009</u>	104,718	86,830	68,971	68,971	68,971	68,971	68,971
	<u>FY 2009-2010</u>	107,860	89,435	71,040	71,040	71,040	71,040	71,040
	<u>FY 2010-2011</u>	111,096	92,118	73,171	73,171	73,171	73,171	73,171
	Elko	~~198,707~~	81,846	65,012	65,012	65,012	65,012	65,012
<i>f</i>		~~115,343~~	~~95,640~~	~~75,069~~	~~75,069~~	~~75,069~~	~~75,069~~	~~75,069~~
	<u>FY 2007-2008</u>	101,668	84,301	66,962	66,962	66,962	66,962	66,962
	<u>FY 2008-2009</u>	104,718	86,830	68,971	68,971	68,971	68,971	68,971
	<u>FY 2009-2010</u>	107,860	89,435	71,040	71,040	71,040	71,040	71,040
	<u>FY 2010-2011</u>	111,096	92,118	73,171	73,171	73,171	73,171	73,171
	Humboldt	~~198,707~~	81,846	65,012	65,012	65,012	65,012	65,012
<i>f</i>		~~115,343~~	~~95,640~~	~~75,069~~	~~75,069~~	~~75,069~~	~~75,069~~	~~75,069~~
	<u>FY 2007-2008</u>	101,668	84,301	66,962	66,962	66,962	66,962	66,962
	<u>FY 2008-2009</u>	104,718	86,830	68,971	68,971	68,971	68,971	68,971
	<u>FY 2009-2010</u>	107,860	89,435	71,040	71,040	71,040	71,040	71,040
	<u>FY 2010-2011</u>	111,096	92,118	73,171	73,171	73,171	73,171	73,171
	Lyon	~~198,707~~	81,846	65,012	65,012	65,012	65,012	65,012
<i>f</i>		~~115,343~~	~~95,640~~	~~75,069~~	~~75,069~~	~~75,069~~	~~75,069~~	~~75,069~~
	<u>FY 2007-2008</u>	101,668	84,301	66,962	66,962	66,962	66,962	66,962
	<u>FY 2008-2009</u>	104,718	86,830	68,971	68,971	68,971	68,971	68,971
	<u>FY 2009-2010</u>	107,860	89,435	71,040	71,040	71,040	71,040	71,040
	<u>FY 2010-2011</u>	111,096	92,118	73,171	73,171	73,171	73,171	73,171
	Nye	~~198,707~~	81,846	65,012	65,012	65,012	65,012	65,012
<i>f</i>		~~115,343~~	~~95,640~~	~~75,069~~	~~75,069~~	~~75,069~~	~~75,069~~	~~75,069~~
	<u>FY 2007-2008</u>	101,668	84,301	66,962	66,962	66,962	66,962	66,962
	<u>FY 2008-2009</u>	104,718	86,830	68,971	68,971	68,971	68,971	68,971
	<u>FY 2009-2010</u>	107,860	89,435	71,040	71,040	71,040	71,040	71,040
	<u>FY 2010-2011</u>	111,096	92,118	73,171	73,171	73,171	73,171	73,171
4	Lander	~~193,223~~	73,662	54,227	54,227	54,227	54,227	54,227
<i>f</i>		~~108,935~~	~~86,072~~	~~63,366~~	~~63,366~~	~~63,366~~	~~63,366~~	~~63,366~~
	<u>FY 2007-2008</u>	96,020	75,872	55,854	55,854	55,854	55,854	55,854
	<u>FY 2008-2009</u>	98,901	78,148	57,530	57,530	57,530	57,530	57,530
	<u>FY 2009-2010</u>	101,868	80,492	59,256	59,256	59,256	59,256	59,256
	<u>FY 2010-2011</u>	104,924	82,907	61,034	61,034	61,034	61,034	61,034
	Storey	~~108,935~~	~~86,072~~	~~63,366~~	~~63,366~~	~~63,366~~	~~63,366~~	~~63,366~~
	<u>FY 2007-2008</u>	96,020	75,872	55,854	55,854	55,854	55,854	55,854
	<u>FY 2008-2009</u>	98,901	78,148	57,530	57,530	57,530	57,530	57,530
	<u>FY 2009-2010</u>	101,868	80,492	59,256	59,256	59,256	59,256	59,256
	<u>FY 2010-2011</u>	104,924	82,907	61,034	61,034	61,034	61,034	61,034
	White Pine	~~193,223~~	73,662	54,227	54,227	54,227	54,227	54,227
<i>f</i>		~~108,935~~	~~86,072~~	~~63,366~~	~~63,366~~	~~63,366~~	~~63,366~~	~~63,366~~
	<u>FY 2007-2008</u>	96,020	75,872	55,854	55,854	55,854	55,854	55,854
	<u>FY 2008-2009</u>	98,901	78,148	57,530	57,530	57,530	57,530	57,530
	<u>FY 2009-2010</u>	101,868	80,492	59,256	59,256	59,256	59,256	59,256
	<u>FY 2010-2011</u>	104,924	82,907	61,034	61,034	61,034	61,034	61,034
5	Eureka	~~182,256~~	58,929	48,607	48,607	48,607	48,607	48,607
<i>f</i>		~~96,120~~	~~68,864~~	~~56,799~~	~~56,799~~	~~56,799~~	~~56,799~~	~~56,799~~
	<u>FY 2007-2008</u>	84,724	60,697	50,065	50,065	50,065	50,065	50,065
	<u>FY 2008-2009</u>	87,266	62,518	51,567	51,567	51,567	51,567	51,567
	<u>FY 2009-2010</u>	89,884	64,394	53,114	53,114	53,114	53,114	53,114
	<u>FY 2010-2011</u>	92,581	66,326	54,707	54,707	54,707	54,707	54,707
	Lincoln	~~182,256~~	58,929	48,607	48,607	48,607	48,607	48,607
<i>f</i>		~~96,120~~	~~68,864~~	~~56,799~~	~~56,799~~	~~56,799~~	~~56,799~~	~~56,799~~
	<u>FY 2007-2008</u>	84,724	60,697	50,065	50,065	50,065	50,065	50,065
	<u>FY 2008-2009</u>	87,266	62,518	51,567	51,567	51,567	51,567	51,567

	~~FY 2009-2010~~	89,884	64,394	53,114	53,114	53,114	53,114		
	~~FY 2010-2011~~	92,581	66,326	54,707	54,707	54,707	54,707		
	Mineral	{82,256	58,929	48,607	48,607	48,607	48,607	—	—
£		~~96,120~~	~~68,864~~	~~56,799~~	~~56,799~~	~~56,799~~	~~56,799~~	—	—
	~~FY 2007-2008~~	84,724	60,697	50,065	50,065	50,065	50,065		
	~~FY 2008-2009~~	87,266	62,518	51,567	51,567	51,567	51,567		
	~~FY 2009-2010~~	89,884	64,394	53,114	53,114	53,114	53,114		
	~~FY 2010-2011~~	92,581	66,326	54,707	54,707	54,707	54,707		
	Pershing	{82,256	58,929	48,607	48,607	48,607	48,607	—	—
£		~~96,120~~	~~68,864~~	~~56,799~~	~~56,799~~	~~56,799~~	~~56,799~~	—	—
	~~FY 2007-2008~~	84,724	60,697	50,065	50,065	50,065	50,065		
	~~FY 2008-2009~~	87,266	62,518	51,567	51,567	51,567	51,567		
	~~FY 2009-2010~~	89,884	64,394	53,114	53,114	53,114	53,114		
	~~FY 2010-2011~~	92,581	66,326	54,707	54,707	54,707	54,707		
	{Storey}	{82,256	58,929	48,607	48,607	48,607	48,607	—	—
6	Esmeralda	{65,314	52,382	42,531	42,531	42,531	42,531	—	—
£		~~76,322~~	~~62,379~~	~~49,699~~	~~49,699~~	~~49,699~~	~~49,699~~	—	—
	~~FY 2007-2008~~	67,273	53,953	43,807	43,807	43,807	43,807		
	~~FY 2008-2009~~	69,291	55,572	45,121	45,121	45,121	45,121		
	~~FY 2009-2010~~	71,370	57,239	46,475	46,475	46,475	46,475		
	~~FY 2010-2011~~	73,511	58,956	47,869	47,869	47,869	47,869		

3. A board of county commissioners may, by a vote of at least a majority of all the members of the board, set the annual salary for the county commissioners of that county, but in no event may the annual salary exceed an amount which equals ~~{126.65}~~ ~~143.504~~ 139.315 percent of the amount of the annual salary for the county commissioners of that county that was in effect by operation of statute on January 1, 2003.

Sec. 2. NRS 245.044 is hereby amended to read as follows:

245.044 1. On and after July 1, 1973, if an elected county officer has served in his office for more than 4 years, he is entitled to an additional salary of 2 percent of his base salary for the appropriate fiscal year as provided in subsection 2 of NRS 245.043 or his annual salary set pursuant to subsection 3 of NRS 245.043, as applicable, for each full calendar year he has served in his office.

2. The additional salary provided in this section for an eligible county officer:

(a) Must be computed on July 1 of each year by multiplying 2 percent of the base salary for the appropriate fiscal year as provided in NRS 245.043 or the annual salary set pursuant to subsection 3 of NRS 245.043, as applicable, by the number of full calendar years the elected county officer has served in his office; and

(b) Must not exceed 20 percent of the base salary for the appropriate fiscal year as provided in NRS 245.043 ~~or the annual salary set pursuant to subsection 3 of NRS 245.043~~ as applicable.

3. Service on the Board of Supervisors of Carson City for the initial term which began on July 1, 1969, and ended on the first Monday of January, 1973, shall be deemed to constitute 4 full calendar years of service for the purposes of this section.

Sec. 3. Except as otherwise provided in section 4 of this act, each county shall commence payment of the increased annual salaries of the elected officers of the county set forth in the table of annual salaries contained in subsection 2 of NRS 245.043, as amended by section 1 of this act ~~{ }~~ :

1. For Fiscal Year 2007-2008, on July 1, 2007.

2. For Fiscal Year 2008-2009, on July 1, 2008.

3. For Fiscal Year 2009-2010, on July 1, 2009.

4. For Fiscal Year 2010-2011, on July 1, 2010.

Sec. 4. 1. Except as otherwise provided in subsection 3, a board of county commissioners may apply to the Committee on Local Government Finance for a waiver from the requirement to increase the annual salaries of elected officers of the county to the annual salaries set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, for any of Fiscal Years 2007-2008, 2008-2009, 2009-2010 or 2010-2011, if the board determines that the financial resources of the county are insufficient to pay those increased annual salaries in ~~Fiscal Year 2007-2008,~~ the applicable fiscal year. The Committee on Local Government Finance shall grant such a waiver if it finds that the financial resources of the county are insufficient to pay those increased annual salaries in ~~Fiscal Year 2007-2008,~~ the applicable fiscal year.

2. A board of county commissioners that has been granted a waiver for a fiscal year as described in subsection 1 may apply to the Committee on Local Government Finance for an additional waiver for the next consecutive fiscal year if ~~it finds,~~ the board determines that the financial resources of the county continue to be insufficient to pay the increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, ~~it,~~ in that fiscal year. There is no limitation on the number of waivers for consecutive fiscal years that the board of county commissioners may be granted if the board ~~of county commissioners finds,~~ determines that the financial resources of the county continue to be insufficient to pay the increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, in that fiscal year.

3. After commencing payment of the increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, in any fiscal year, a board of county commissioners may not apply for a waiver in any subsequent fiscal year.

4. The increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, ~~is~~

~~(a) Must~~ must not be paid retroactively for ~~the period of Fiscal Year 2007-2008,~~ any fiscal year for which a waiver was granted to the county pursuant to subsection 1.

~~[(b) May be paid retroactively for any fiscal year after Fiscal Year 2007-2008 for which a waiver was granted to the county pursuant to subsection 2.]~~

Sec. 5. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. This act becomes effective on July 1, 2007.

Amendment No. 1031.

"SUMMARY—Revises provisions governing the compensation of certain elected county officers. (BDR 20-225)"

"AN ACT relating to public officers; revising the provisions governing the compensation of certain elected county officers; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill increases , by 3 percent for each of Fiscal Years 2007-2008, 2008-2009, 2009-2010 and 2010-2011, the maximum amount at which the board of county commissioners may set the annual salary for a county commissioner of that county. Section 1 also increases, by 3 percent for each of Fiscal Years 2007-2008, 2008-2009, 2009-2010 and 2010-2011, the compensation to be paid to certain other elected county officers. (NRS 245.043) Pursuant to section 3 of this bill, the increases applicable to: (1) Fiscal Year 2007-2008, become effective on July 1, 2007; (2) Fiscal Year 2008-2009, become effective on July 1, 2008; (3) Fiscal Year 2009-2010, become effective on July 1, 2009; and (4) Fiscal Year 2010-2011, become effective on July 1, 2010. However, section 4 of this bill authorizes a county that has not commenced payment of the increased annual salaries to request and receive a waiver from payment of the increases based on insufficient financial resources. If a waiver is granted for any fiscal year, section 4 prohibits retroactive payment of the increases for that fiscal year. Section 1 also changes the salary classification of Storey County, thereby increasing the amount of the annual salaries paid to its elected county officers. Section 2 of this bill clarifies that county commissioners are eligible for longevity pay. (NRS 245.044)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 245.043 is hereby amended to read as follows:

245.043 1. As used in this section:

(a) "County" includes Carson City.

(b) "County commissioner" includes the Mayor and supervisors of Carson City.

2. Except as otherwise provided by any special law, the elected officers of the counties of this State are entitled to receive , for the appropriate fiscal year, annual salaries in the base amounts specified in the following table. The annual salaries are in full payment for all services required by law to be performed by such officers. Except as otherwise provided by law, all fees and commissions collected by such officers in the performance of their duties must be paid into the county treasury each month without deduction of any nature.

ANNUAL SALARIES								
Class	County	District Attorney	Sheriff	County Clerk	County Assessor	County Recorder	County Treasurer	Public Administrator
1	Clark	\$155,745	\$134,263	\$91,138	\$91,138	\$91,138	\$91,138	\$91,138

	FY 2007-2008	\$160,417	\$138,291	\$93,872	\$93,872	\$93,872	\$93,872	\$93,872
	FY 2008-2009	165,230	142,440	96,668	96,668	96,668	96,668	96,668
	FY 2009-2010	170,187	146,713	99,589	99,589	99,589	99,589	99,589
	FY 2010-2011	175,293	151,114	102,577	102,577	102,577	102,577	102,577
2	Washoe	~~137,485~~	~~110,632~~	~~83,543~~	~~83,543~~	~~83,543~~	~~83,543~~	~~83,543~~
	FY 2007-2008	141,610	113,951	86,049	86,049	86,049	86,049	86,049
	FY 2008-2009	145,858	117,370	88,630	88,630	88,630	88,630	88,630
	FY 2009-2010	150,234	120,891	91,289	91,289	91,289	91,289	91,289
	FY 2010-2011	154,741	124,518	94,028	94,028	94,028	94,028	94,028
3	Carson City	~~198,707~~	~~181,846~~	~~65,012~~	~~65,012~~	~~65,012~~	~~65,012~~	~~65,012~~
	FY 2007-2008	101,668	84,301	66,962	66,962		66,962	
	FY 2008-2009	104,718	86,830	68,971	68,971		68,971	
	FY 2009-2010	107,860	89,435	71,040	71,040		71,040	
	FY 2010-2011	111,096	92,118	73,171	73,171		73,171	
	Churchill	~~198,707~~	~~81,846~~	~~65,012~~	~~65,012~~	~~65,012~~	~~65,012~~	~~65,012~~
	FY 2007-2008	101,668	84,301	66,962	66,962	66,962		
	FY 2008-2009	104,718	86,830	68,971	68,971	68,971		
	FY 2009-2010	107,860	89,435	71,040	71,040	71,040		
	FY 2010-2011	111,096	92,118	73,171	73,171	73,171		
	Douglas	~~198,707~~	~~81,846~~	~~65,012~~	~~65,012~~	~~65,012~~	~~65,012~~	~~65,012~~
	FY 2007-2008	101,668	84,301	66,962	66,962	66,962		
	FY 2008-2009	104,718	86,830	68,971	68,971	68,971		
	FY 2009-2010	107,860	89,435	71,040	71,040	71,040		
	FY 2010-2011	111,096	92,118	73,171	73,171	73,171		
	Elko	~~198,707~~	~~81,846~~	~~65,012~~	~~65,012~~	~~65,012~~	~~65,012~~	~~65,012~~
	FY 2007-2008	101,668	84,301	66,962	66,962	66,962	66,962	
	FY 2008-2009	104,718	86,830	68,971	68,971	68,971	68,971	
	FY 2009-2010	107,860	89,435	71,040	71,040	71,040	71,040	
	FY 2010-2011	111,096	92,118	73,171	73,171	73,171	73,171	
	Humboldt	~~198,707~~	~~81,846~~	~~65,012~~	~~65,012~~	~~65,012~~	~~65,012~~	~~65,012~~
	FY 2007-2008	101,668	84,301	66,962	66,962	66,962	66,962	
	FY 2008-2009	104,718	86,830	68,971	68,971	68,971	68,971	
	FY 2009-2010	107,860	89,435	71,040	71,040	71,040	71,040	
	FY 2010-2011	111,096	92,118	73,171	73,171	73,171	73,171	
	Lyon	~~198,707~~	~~81,846~~	~~65,012~~	~~65,012~~	~~65,012~~	~~65,012~~	~~65,012~~
	FY 2007-2008	101,668	84,301	66,962	66,962	66,962		
	FY 2008-2009	104,718	86,830	68,971	68,971	68,971		
	FY 2009-2010	107,860	89,435	71,040	71,040	71,040		
	FY 2010-2011	111,096	92,118	73,171	73,171	73,171		
	Nye	~~198,707~~	~~81,846~~	~~65,012~~	~~65,012~~	~~65,012~~	~~65,012~~	~~65,012~~
	FY 2007-2008	101,668	84,301	66,962	66,962	66,962	66,962	
	FY 2008-2009	104,718	86,830	68,971	68,971	68,971	68,971	
	FY 2009-2010	107,860	89,435	71,040	71,040	71,040	71,040	
	FY 2010-2011	111,096	92,118	73,171	73,171	73,171	73,171	
4	Lander	~~193,223~~	~~73,662~~	~~54,227~~	~~54,227~~	~~54,227~~	~~54,227~~	~~54,227~~
	FY 2007-2008	96,020	75,872	55,854	55,854	55,854	55,854	
	FY 2008-2009	98,901	78,148	57,530	57,530	57,530	57,530	
	FY 2009-2010	101,868	80,492	59,256	59,256	59,256	59,256	
	FY 2010-2011	104,924	82,907	61,034	61,034	61,034	61,034	
	Storey							
	FY 2007-2008	96,020	75,872	55,854	55,854	55,854	55,854	
	FY 2008-2009	98,901	78,148	57,530	57,530	57,530	57,530	
	FY 2009-2010	101,868	80,492	59,256	59,256	59,256	59,256	
	FY 2010-2011	104,924	82,907	61,034	61,034	61,034	61,034	
	White Pine	~~193,223~~	~~73,662~~	~~54,227~~	~~54,227~~	~~54,227~~	~~54,227~~	~~54,227~~
	FY 2007-2008	96,020	75,872	55,854	55,854	55,854	55,854	
	FY 2008-2009	98,901	78,148	57,530	57,530	57,530	57,530	
	FY 2009-2010	101,868	80,492	59,256	59,256	59,256	59,256	
	FY 2010-2011	104,924	82,907	61,034	61,034	61,034	61,034	
5	Eureka	~~182,256~~	~~58,929~~	~~48,607~~	~~48,607~~	~~48,607~~	~~48,607~~	~~48,607~~
	FY 2007-2008	84,724	60,697	50,065	50,065	50,065	50,065	
	FY 2008-2009	87,266	62,518	51,567	51,567	51,567	51,567	
	FY 2009-2010	89,884	64,394	53,114	53,114	53,114	53,114	
	FY 2010-2011	92,581	66,326	54,707	54,707	54,707	54,707	

Lincoln	[82,256	58,929	48,607	48,607	48,607	48,607	-----]
FY 2007-2008	84,724	60,697	50,065	50,065	50,065	50,065	
FY 2008-2009	87,266	62,518	51,567	51,567	51,567	51,567	
FY 2009-2010	89,884	64,394	53,114	53,114	53,114	53,114	
FY 2010-2011	92,581	66,326	54,707	54,707	54,707	54,707	
Mineral	[82,256	58,929	48,607	48,607	48,607	-----	-----]
FY 2007-2008	84,724	60,697	50,065	50,065	50,065	50,065	
FY 2008-2009	87,266	62,518	51,567	51,567	51,567	51,567	
FY 2009-2010	89,884	64,394	53,114	53,114	53,114	53,114	
FY 2010-2011	92,581	66,326	54,707	54,707	54,707	54,707	
Pershing	[82,256	58,929	48,607	48,607	48,607	-----	-----]
FY 2007-2008	84,724	60,697	50,065	50,065	50,065	50,065	
FY 2008-2009	87,266	62,518	51,567	51,567	51,567	51,567	
FY 2009-2010	89,884	64,394	53,114	53,114	53,114	53,114	
FY 2010-2011	92,581	66,326	54,707	54,707	54,707	54,707	
[Storey]	[82,256	58,929	48,607	48,607	48,607	-----	-----]
6 Esmeralda	[65,314	52,382	42,531	42,531	42,531	-----	-----]
FY 2007-2008	67,273	53,953	43,807	43,807	43,807	43,807	
FY 2008-2009	69,291	55,572	45,121	45,121	45,121	45,121	
FY 2009-2010	71,370	57,239	46,475	46,475	46,475	46,475	
FY 2010-2011	73,511	58,956	47,869	47,869	47,869	47,869	

3. A board of county commissioners may, by a vote of at least a majority of all the members of the board, set the annual salary for the county commissioners of that county, but in no event may the annual salary exceed an amount which equals ~~[\$126.65]~~ ~~[\$139.315]~~ :

(a) For Fiscal Year 2007-2008, 130.450 percent ;

(b) For Fiscal Year 2008-2009, 134.364 percent;

(c) For Fiscal Year 2009-2010, 138.395 percent; and

(d) For Fiscal Year 2010-2011, 142.547 percent.

➡ of the amount of the annual salary for the county commissioners of that county that was in effect by operation of statute on January 1, 2003.

Sec. 2. NRS 245.044 is hereby amended to read as follows:

245.044 1. On and after July 1, 1973, if an elected county officer has served in his office for more than 4 years, he is entitled to an additional salary of 2 percent of his base salary *for the appropriate fiscal year as provided in subsection 2 of NRS 245.043 or his annual salary set pursuant to subsection 3 of NRS 245.043, as applicable*, for each full calendar year he has served in his office.

2. The additional salary provided in this section for an eligible county officer:

(a) Must be computed on July 1 of each year by multiplying 2 percent of the base salary *for the appropriate fiscal year as provided in NRS 245.043 or the annual salary set pursuant to subsection 3 of NRS 245.043, as applicable*, by the number of full calendar years the elected county officer has served in his office; and

(b) Must not exceed 20 percent of the base salary *for the appropriate fiscal year as provided in NRS 245.043 [-] or the annual salary set pursuant to subsection 3 of NRS 245.043, as applicable*.

3. Service on the Board of Supervisors of Carson City for the initial term which began on July 1, 1969, and ended on the first Monday of

January, 1973, shall be deemed to constitute 4 full calendar years of service for the purposes of this section.

Sec. 3. Except as otherwise provided in section 4 of this act, each county shall commence payment of the increased annual salaries of the elected officers of the county set forth in the table of annual salaries contained in subsection 2 of NRS 245.043, as amended by section 1 of this act:

1. For Fiscal Year 2007-2008, on July 1, 2007.
2. For Fiscal Year 2008-2009, on July 1, 2008.
3. For Fiscal Year 2009-2010, on July 1, 2009.
4. For Fiscal Year 2010-2011, on July 1, 2010.

Sec. 4. 1. Except as otherwise provided in subsection 3, a board of county commissioners may apply to the Committee on Local Government Finance for a waiver from the requirement to increase the annual salaries of elected officers of the county to the annual salaries set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, for any of Fiscal Years 2007-2008, 2008-2009, 2009-2010 or 2010-2011, if the board determines that the financial resources of the county are insufficient to pay those increased annual salaries in the applicable fiscal year. The Committee on Local Government Finance shall grant such a waiver if it finds that the financial resources of the county are insufficient to pay those increased annual salaries in the applicable fiscal year.

2. A board of county commissioners that has been granted a waiver for a fiscal year as described in subsection 1 may apply to the Committee on Local Government Finance for an additional waiver for the next consecutive fiscal year if the board determines that the financial resources of the county continue to be insufficient to pay the increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, in that fiscal year. There is no limitation on the number of waivers for consecutive fiscal years that the board of county commissioners may be granted if the board determines that the financial resources of the county continue to be insufficient to pay the increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, in that fiscal year.

3. After commencing payment of the increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, in any fiscal year, a board of county commissioners may not apply for a waiver in any subsequent fiscal year.

4. The increased annual salaries of the elected officers of the county set forth in the table contained in subsection 2 of NRS 245.043, as amended by section 1 of this act, must not be paid retroactively for any fiscal year for which a waiver was granted to the county pursuant to subsection 1.

Sec. 5. The provisions of subsection 1 of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. This act becomes effective on July 1, 2007.

Senator Hardy moved that the Senate do not concur in the Assembly amendments to Senate Bill No. 516.

Remarks by Senator Hardy.

Motion carried.

Bill ordered transmitted to the Assembly.

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Senate Bills Nos. 3, 10, 16, 53, 78, 103, 110, 111, 112, 132, 161, 169, 182, 187, 195, 198, 247, 275, 277, 279, 339, 340, 345, 356, 400, 417, 419, 420, 430, 447, 451, 453, 456, 457, 470, 477, 481, 486, 491, 495, 500, 503, 504, 508, 511, 515, 518, 519, 520, 534, 557; Senate Joint Resolutions Nos. 4, 6, 10, 11, 12, 13, 15, 16, 17; ; Assembly Bills Nos. 25, 41, 51, 53, 54, 55, 64, 67, 80, 87, 90, 91, 92, 101, 112, 120, 137, 143, 145, 147, 176, 193, 194, 195, 216, 226, 227, 228, 239, 247, 249, 253, 263, 296, 321, 322, 326, 331, 334, 342, 352, 364, 373, 375, 383, 386, 391, 404, 406, 410, 421, 433, 439, 446, 463, 468, 478, 483, 489, 490, 493, 498, 507, 512, 514, 516, 517, 518, 526, 529, 531, 533, 535, 540, 549, 554, 558, 562, 567, 570, 576, 580, 592, 596, 600, 608, 612, 616; Assembly Joint Resolutions Nos. 7, 9, 10; Assembly Joint Resolution No. 16 of the 73rd Session.

REMARKS FROM THE FLOOR

Senator Heck requested that his remarks be entered in the Journal.

Since our last Memorial Day in these Chambers, an additional 1,787 service members have made the ultimate sacrifice in operations in Iraq, and 199 more have lost their lives in Afghanistan. In total, 3,844 soldiers, airman, sailors and Marines have answered the call to duty by laying down their lives in support of Operations Iraqi Freedom and Enduring Freedom. Included in this total are 51 with ties to Nevada.

This month has been particularly hard on our great State with the loss of three Nevadans in two weeks. They are Staff Sergeant Coby Schwab of Henderson, May 3; Sergeant Anthony Schober of Reno, May 12; and Private First Class Alex Varela of Fernley, May 19.

As the general population tires of the war and grows impatient with the pace of military operations, as it questions why we are still in Iraq and why Nevada's sons and daughters continue the tradition of selfless service, I am reminded of the scripture Isaiah 6:8: "Then I heard the voice of the Lord saying, Whom shall I send, who will go for us? And I said, Here am I Lord, send me."

Just as Isaiah answered to the higher calling so, too, do the patriots who comprise our Armed Forces.

And, so, on this day, I ask that this body remember all those who have served, those who have sacrificed themselves for a greater cause, especially the 51 Nevadans who have lost their lives in on-going operations, and I ask that when we adjourn, today, we do so in memory of Staff Sergeant Schwab, Sergeant Schober and Private First Class Varela.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Care, the privilege of the floor of the Senate Chamber for this day was extended to Aidan Courtney.

On request of Senator Lee, the privilege of the floor of the Senate Chamber for this day was extended to Dennis Meseruy and Mara Meseruy.

On request of Senator Titus, the privilege of the floor of the Senate Chamber for this day was extended to Cheryl Chaudron and Donna Fazo.

Senator Raggio moved that the Senate adjourn until Wednesday, May 30, 2007, at 11 a.m. and that it do so in memory of Staff Sergeant Coby Schwab, Sergeant Anthony Schober and Private First Class Alex Varela as requested by Senator Heck.

Motion carried.

Senate adjourned at 12:58 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate