THE SEVENTY-EIGHTH DAY

CARSON CITY (Monday) April 20, 2009

Assembly called to order at 10:55 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Pastor Monte Fast.

Let us learn a lesson when our prayers are not answered, when a recession won't go away quickly, when frustration threatens our happiness. The Creator, to whom we pray, knows more than we. God balances His answers in ways beyond our knowledge, goals, or aspirations. At times, we experience disappointment. The lesson then is, who do we trust? The answer, for this nation, is stamped in its coin.

AMEN.

Pledge of allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 84, 95, 208, 215, 224, 281, 287, 387, 448, 470 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 256, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 40, 74, 87, 130, 147, 159, 192, 225, 284, 397, 416, 478, 492, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Health and Human Services, to which were referred Assembly Bills Nos. 6, 227, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DEBBIE SMITH, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 262, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Taxation, to which was referred Assembly Bill No. 307, 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 Taxation, to which was referred Assembly Bill No. 317, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended and rerefer to the Committee on Ways and Means.

KATHY MCCLAIN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 235, 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 Transportation, to which was referred Assembly Bill No. 504, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended and rerefer to the Committee on Ways and Means.

KELVIN ATKINSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 6, 40, 74, 84, 87, 95, 130, 147, 159, 192, 208, 215, 225, 224, 227, 235, 256, 262, 281, 284, 287, 307, 317, 387, 397, 416, 448, 470, 478, 492, 504 just reported out of committee, be placed on the appropriate reading file.

Motion carried.

Assemblyman Oceguera moved that the reading of the histories on all bills and resolutions be dispensed with for this legislative day.

Motion carried.

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, April 17, 2009

To the Honorable the Assembly:

I have the honor to inform your honorable body that the Senate on this day passed Assembly Bills Nos. 169, 172, 182; Senate Bill No. 353.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 73, 132, 137, 183, 186, 229, 239, 261, 278, 290, 305, 312, 338, 340, 343, 372, 377, 383.

SHERRY L. RODRIGUEZ
Assistant Secretary of the Senate

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

April 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the exemption of: Assembly Bills Nos. 283 and 385.

Also, the Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 521.

MARK STEVENS
Fiscal Analysis Division

April 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 378.

GARY GHIGGERI
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 215, 227, 235, 262, 287, and 416 be taken from their position on the Second Reading File and placed at the top of the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 215.

Bill read second time.

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

Amendment No. 435.

SUMMARY—~~[Expands the circumstances under which an owner of a residence may recover damages from the Recovery Fund administered by the State Contractors' Board.]~~ **Requires a contractor or an applicant for an original or a renewal of a contractor's license to obtain and maintain certain liability insurance.** (BDR 54-893)

AN ACT relating to contractors; ~~[expanding the circumstances under which an owner of a residence may recover damages from the Recovery Fund administered by the State Contractors' Board for an act or omission of a contractor; clarifying the application of the limitation on amounts paid out of the Recovery Fund;]~~ **requiring licensed contractors and applicants for issuance or renewal of a contractor's license to obtain and provide proof of liability insurance;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law allows an owner of a single-family residence to recover from the Recovery Fund administered by the State Contractors' Board when the owner suffers damages for an act or omission by a residential contractor who has contracted to perform qualified services on the residence. (NRS 624.420, 624.430, 624.470, 624.510) This bill expands the circumstances for recovery from the Recovery Fund to allow an owner of any residence to recover from the Recovery Fund when the owner suffers damages for an act or omission by any contractor who performs any services on the residence, regardless of whether the services were performed pursuant to a contract. This bill also clarifies the application of the limitation on the amount of money which the Board or its designee may pay out of the Recovery Fund by stating that the~~

~~limit applies on a per unit basis.~~] **Section 1 of this bill requires a contractor licensed pursuant to chapter 624 of NRS or an applicant for an original or renewal license under that chapter to obtain, maintain and provide proof of insurance, with coverage having specified limits of liability for claims for injury to persons or damage to property which may arise from or in connection with the work of the contractor or applicant or his agents, representatives, employees or subcontractors.**

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

Section 1. **Chapter 624 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Before granting an original or renewal of a contractor's license to an applicant, the Board shall require that the applicant submit to the Board proof of insurance against claims for injury to persons or damage to property which may arise from or in connection with work that is subject to regulation pursuant to this chapter performed by the applicant or his agents, representatives, employees or subcontractors in an amount not less than the amount set forth in subsection 2.

2. To satisfy the requirements of this section, a licensee or an applicant for a contractor's license shall obtain and provide proof of insurance with coverage that has limits of liability not less than:

(a) If the Board places on the license a limit on contracting or bidding to contract in an amount less than $1,000,000, $300,000 in the aggregate and $100,000 for each occurrence;

(b) If the Board places on the license a limit on contracting or bidding to contract in an amount $1,000,000 or greater but less than $10,000,000, $2,000,000 in the aggregate and $1,000,000 for each occurrence; and

(c) If the Board places on the license a limit on contracting or bidding to contract in an amount that is $10,000,000 or greater or is unlimited, $3,000,000 in the aggregate and $3,000,000 for each occurrence.

3. If a licensee applies to the Board for a temporary increase in the limit on contracting or bidding to contract which the Board has placed on his license, the Board shall require the licensee to submit proof of insurance with coverage that has limits of liability as provided in subsection 2 that correspond to the temporary limit on contracting or bidding to contract. The insurance required pursuant to this subsection may be contingent upon approval by the Board of the temporary increase in the limit on contracting or bidding to contract.

4. A licensee shall maintain the insurance required pursuant to this section at all times during which he holds his license.

5. The Board may impose an administrative fine against a licensee in an amount not greater than $10,000, in addition to any other penalty authorized by this chapter, if the licensee:

(a) Causes injury to persons or damage to property which arises from or in connection with work that is subject to regulation pursuant to this chapter performed by the licensee or his agents, representatives, employees or subcontractors; and

(b) Has failed to comply with the requirements of subsection 2 or 3.

Sec. 1.3. **NRS 624.220 is hereby amended to read as follows:**

624.220 1. The Board shall adopt regulations necessary to effect the classification and subclassification of contractors in a manner consistent with established usage and procedure as found in the construction business, and may limit the field and scope of the operations of a licensed contractor to those in which he is classified and qualified to engage as defined by NRS 624.215 and the regulations of the Board.

2. The Board shall limit the field and scope of the operations of a licensed contractor by establishing a monetary limit on a contractor's license, and the limit must be the maximum contract a licensed contractor may undertake on one or more construction contracts on a single construction site or subdivision site for a single client. The Board may take any other action designed to limit the field and scope of the operations of a contractor as may be necessary to protect the health, safety and general welfare of the public. The limit must be determined after consideration of the factors set forth in NRS 624.260 to 624.265, inclusive ~~.~~ ***and section 1 of this act.***

3. A licensed contractor may request that the Board increase the monetary limit on his license, either on a permanent basis or for a single construction project. A request submitted to the Board pursuant to this subsection must be in writing on a form prescribed by the Board and accompanied by such supporting documentation as the Board may require. If a request submitted pursuant to this section is for a single construction project, the request must be submitted to the Board at least 2 working days before the date on which the licensed contractor intends to submit his bid for the project.

4. Subject to the provisions of regulations adopted pursuant to subsection 5, nothing contained in this section prohibits a specialty contractor from taking and executing a contract involving the use of two or more crafts or trades, if the performance of the work in the crafts or trades, other than in which he is licensed, is incidental and supplemental to the performance of work in the craft for which the specialty contractor is licensed.

5. The Board shall adopt regulations establishing a specific limit on the amount of asbestos that a licensed contractor with a license that is not classified

for the abatement or removal of asbestos may abate or remove pursuant to subsection 4.

~~[Section 1.]~~ ***Sec. 1.5.*** ~~[NRS 624.283 is hereby amended to read as follows:~~

~~624.283 1. Each license issued under the provisions of this chapter expires 2 years after the date on which it is issued, except that the Board may~~

~~by regulation prescribe shorter or longer periods and prorated fees to establish a system of staggered biennial renewals. Any license which is not renewed on or before the date for renewal is automatically suspended.~~

~~2. A license may be renewed by submitting to the Board:~~

~~(a) An application for renewal;~~

~~(b) The fee for renewal fixed by the Board;~~

~~(c) Any assessment required pursuant to NRS 624.470~~ **;** ~~**[**if the holder of the license is a residential contractor as defined in NRS 624.450;**]** and~~

~~(d) All information required to complete the renewal.~~

~~3. The Board may require a licensee to demonstrate his financial responsibility at any time through the submission of:~~

~~(a) A financial statement that is:~~

~~(1) Prepared by an independent certified public accountant; or~~

~~(2) Submitted on a form or in a format prescribed by the Board~~ **,** ~~together with an affidavit which verifies the accuracy of the financial statement; and~~

~~(b) If the licensee performs residential construction, such additional documentation as the Board deems appropriate.~~

~~4. If a license is automatically suspended pursuant to subsection 1, the licensee may have his license reinstated upon filing an application for renewal within 6 months after the date of suspension and paying, in addition to the fee for renewal, a fee for reinstatement fixed by the Board, if he is otherwise in good standing and there are no complaints pending against him. If he is otherwise not in good standing or there is a complaint pending, the Board shall require him to provide a current financial statement prepared by an independent certified public accountant or establish other conditions for reinstatement. An application for renewal must be accompanied by all information required to complete the renewal. A license which is not reinstated within 6 months after it is automatically suspended may be cancelled by the Board, and a new license may be issued only upon application for an original contractor's license.~~**] (Deleted by amendment.)**

Sec. 1.7. **NRS 624.3013 is hereby amended to read as follows:**

624.3013 The following acts, among others, constitute cause for disciplinary action pursuant to NRS 624.300:

1. Failure to keep records showing all contracts, documents, receipts and disbursements by a licensee of all of his transactions as a contractor and to keep them open for inspection by the Board or Executive Officer for a period of not less than 3 years after the completion of any construction project or operation to which the records refer.

2. Misrepresentation of a material fact by an applicant or licensee in connection with any information or evidence furnished the Board in connection with official matters of the Board.

3. Failure to establish financial responsibility pursuant to NRS 624.220 and 624.260 to 624.265, inclusive, ***and section 1 of this act*** at the time of renewal of the license or at any other time when required by the Board.

4. Failure to keep in force the bond or cash deposit pursuant to NRS 624.270 for the full period required by the Board.

5. Failure in any material respect to comply with the provisions of this chapter or the regulations of the Board.

Sec. 2. ~~[NRS 624.420 is hereby amended to read as follows:~~

~~624.420 "Injured person" means an owner who is damaged by the failure of a [residential] contractor to perform [qualified] services adequately [.] *with regard to a residence owned by the owner.]*~~ **(Deleted by amendment.)**

Sec. 3. ~~[NRS 624.430 is hereby amended to read as follows:~~

~~624.430 "Owner" means [a] :~~

~~*1. A* natural person who owns a [single family residence and who contracts with a residential contractor for the performance of qualified services with respect to the] residence [.] *; or*~~

~~*2. A representative of a homeowners' association that is responsible for a residence or appurtenance and is acting within the scope of his duties pursuant to chapter 116 or 117 of NRS.*~~

~~➥ The term includes a subsequent owner.]~~ **(Deleted by amendment.)**

Sec. 4. ~~[NRS 624.460 is hereby amended to read as follows:~~

~~624.460 "Subsequent owner" means a natural person who purchases a [single family] residence from the owner of the residence.]~~ **(Deleted by amendment.)**

Sec. 5. ~~[NRS 624.470 is hereby amended to read as follows:~~

~~624.470 1. Except as otherwise provided in subsection 3, in addition to the fee for a license required pursuant to NRS 624.280, a [residential] contractor shall pay to the Board an assessment not to exceed the following amount, if the monetary limit on his license is:~~

~~Not more than $1,000,000 $200 per biennium~~

~~More than $1,000,000 but limited 500 per biennium~~

~~Unlimited 1,000 per biennium~~

~~2. The Board shall administer and account separately for the money received from the assessments collected pursuant to subsection 1. The Board may refer to the money in the account as the "Recovery Fund."~~

~~3. The Board shall reduce the amount of the assessments collected pursuant to subsection 1 when the balance in the account reaches 150 percent of the largest balance in the account during the previous fiscal year.~~

~~4. Except as otherwise provided in NRS 624.540, the money in the account must be used to pay claims made by owners who are damaged by the failure of a [residential] contractor to perform [qualified] services adequately, as provided in NRS 624.400 to 624.560, inclusive.]~~ **(Deleted by amendment.)**

Sec. 6. ~~[NRS 624.480 is hereby amended to read as follows:~~

624.480 Except as otherwise provided in NRS 624.490, an injured person who wishes to recover from the account must file a complaint with the Board or its designee within 4 years after the completion of ~~[qualified]~~

~~*the* services **[**.**]** *that a contractor is alleged to have failed to perform adequately.]*~~ **(Deleted by amendment.)**

Sec. 7. ~~**[**NRS 624.490 is hereby amended to read as follows:~~

~~624.490 Within 2 years after an injured person has obtained a judgment in any court of competent jurisdiction for recovery of damages against a **[**residential**]** contractor for an act or omission of the **[**residential**]** contractor that is in violation of this chapter or the regulations adopted pursuant thereto, the injured person may apply to the Board for satisfaction of the judgment from the account if:~~

~~1. The proceedings in connection with the judgment have terminated, including appeals;~~

~~2. He submits an application on a form established for this purpose by the Board;~~

~~3. He submits proof satisfactory to the Board of the judgment; and~~

~~4. Upon obtaining payment from the account, he assigns his rights to enforce the judgment to the Board.**]** **(Deleted by amendment.)**~~

Sec. 8. ~~**[**NRS 624.510 is hereby amended to read as follows:~~

~~624.510 1. Except as otherwise provided in NRS 624.490 and subsection 2, an injured person is eligible for recovery from the account if the Board or its designee finds that the injured person suffered actual damages as a result of an act or omission of a **[**residential**]** contractor that is in violation of this chapter or the regulations adopted pursuant thereto.~~

~~2. An injured person is not eligible for recovery from the account if:~~

~~(a) The injured person is the spouse of the licensee, or a personal representative of the spouse of the licensee;~~

~~(b) The injured person was associated in a business relationship with the licensee other than the contract at issue; or~~

~~(c) At the time of **[**contracting**]** *entering into an agreement for services* with the **[**residential**]** contractor, the license of the **[**residential**]** contractor was suspended or revoked pursuant to NRS 624.300.~~

~~3. If the Board or its designee determines that an injured person is eligible for recovery from the account pursuant to this section or NRS 624.490, the Board or its designee may pay out of the account:~~

~~(a) The amount of actual damages suffered, but not to exceed $35,000 **[**;**]** *per unit;* or~~

~~(b) If a judgment was obtained as set forth in NRS 624.490, the amount of actual damages included in the judgment and remaining unpaid, but not to exceed $35,000 **[**.**]** *per unit.*~~

~~4. The decision of the Board or its designee regarding eligibility for recovery and all related issues is final and not subject to judicial review.~~

~~5. If the injured person has recovered a portion of his loss from sources other than the account, the Board shall deduct the amount recovered from the other sources from the amount payable upon the claim and direct the difference to be paid from the account.~~

~~6. To the extent of payments made from the account, the Board is subrogated to the rights of the injured person, including, without limitation, the right to collect from a surety bond or a cash bond. The Board and the Attorney General shall promptly enforce all subrogation claims.~~

~~7. The amount of recovery from the account based upon claims made against any single contractor must not exceed $400,000.~~

~~8. As used in this section, "actual damages" includes attorney's fees or costs in contested cases appealed to the Supreme Court of this State. The term does not include any other attorney's fees or costs.~~**] (Deleted by amendment.)**

Sec. 9. ~~.~~ **[**~~NRS 624.520 is hereby amended to read as follows:~~

~~624.520 1. A~~ **[**~~residential~~**]** ~~contractor shall notify an owner with whom he~~ **[**~~contracts~~**]** ***enters an agreement to perform services*** ~~of the rights of the owner pursuant to NRS 624.400 to 624.560, inclusive, including, without limitation, providing a written statement explaining those rights in any agreement or contract for~~ **[**~~qualified~~**]** ~~services. The written statement must be in substantially the following form:~~

~~RESIDENTIAL CONSTRUCTION RECOVERY FUND~~

~~Payment may be available from the Recovery Fund if you are damaged financially by a project performed on your residence pursuant to~~ **[**~~a~~**]** ***an agreement or*** ~~contract, including~~ ***, without limitation,*** ~~construction, remodeling, repair or other improvements, and the damage resulted from certain specified violations of Nevada law by a contractor licensed in this State. To obtain information relating to the Recovery Fund and filing a claim for recovery from the Recovery Fund, you may contact the State Contractors' Board at the following locations:~~

~~State Contractors' Board State Contractors' Board~~

~~9670 Gateway Drive, Suite 100 2310 Corporate Circle, Suite 200~~

~~Reno, Nevada 89521Henderson, Nevada 89074~~

~~Telephone number: (775) 688-1141 Telephone number: (702) 486-1100~~

~~2. The Board may impose upon a contractor an administrative fine:~~

~~(a) Of not more than $100 for the first violation of subsection 1; and~~

~~(b) Of not more than $250 for a second or subsequent violation of subsection 1.~~

~~3. The Board shall deposit any money received pursuant to this section in the account established pursuant to NRS 624.470.~~**] (Deleted by amendment.)**

Sec. 10. **[**~~NRS 624.530 is hereby amended to read as follows:~~

~~624.530 The provisions of NRS 624.400 to 624.560, inclusive, do not limit the authority of the Board to take disciplinary action against a~~ **[**~~residential~~**]** ~~contractor.~~**] (Deleted by amendment.)**

Sec. 11. **[**~~NRS 624.622 is hereby amended to read as follows:~~

~~624.622 1. A prime contractor shall provide a copy of any notice given to an owner pursuant to subsection 1 or 2 of NRS 624.610 to each lower-tiered subcontractor with whom the prime contractor has entered into an~~

~~agreement. Upon receipt of payment pursuant to NRS 624.609, the prime contractor shall notify all such lower tiered subcontractors in writing of his receipt of payment.~~

~~2. A condition, stipulation or provision in an agreement which:~~

~~(a) Requires a prime contractor to waive any rights provided in~~ **[**~~this section,~~**]** ~~NRS 624.609~~ **[**~~, 624.610, 624.620~~**]** ***~~to 624.622, inclusive,~~*** ~~or 624.630, or which limits those rights;~~

~~(b) Relieves an owner of any obligation or liability imposed pursuant to NRS 624.606 to 624.630, inclusive; or~~

~~(c) Requires a prime contractor to waive, release or extinguish a claim or right for damages or an extension of time that the prime contractor may otherwise possess or acquire as a result of delay, acceleration, disruption or an impact event that is unreasonable under the circumstances, that was not within the contemplation of the parties at the time the agreement was entered into, or for which the prime contractor is not responsible,~~

~~➥ is against public policy and is void and unenforceable.~~

~~3. All notices required pursuant to~~ **[**~~this section,~~**]** ~~NRS 624.609~~ **[**~~, 624.610 and 624.620~~**]** ***~~to 624.622, inclusive,~~*** ~~must be:~~

~~(a) Delivered personally, in which case the prime contractor shall obtain a notarized statement from the person who delivered the notice as proof of delivery;~~

~~(b) Sent by facsimile and delivered by regular mail, in which case the prime contractor shall retain proof of a successful transmission of the facsimile;~~

~~(c) Delivered by certified mail; or~~

~~(d) Delivered in the manner provided for in the agreement.~~

~~4.~~ **[**~~This section,~~**]** ~~NRS 624.609~~ **[**~~, 624.610 and 624.620~~**]** ***~~to 624.622, inclusive,~~*** ~~do not apply to an agreement between:~~

~~(a) A prime contractor and a natural person who owns~~ ***~~and occupies~~*** ~~a single-family residence for the performance of~~ **[**~~qualified~~**]** ~~services with respect to the residence; or~~

~~(b) A public body and a prime contractor for the performance of work and labor on a public work.~~

~~5. Within 5 days after an owner receives a written request for the information set forth in paragraphs (a), (b) and (c) from a lower-tiered subcontractor, the owner shall notify the lower-tiered subcontractor in writing of the following:~~

~~(a) The date the owner made a specified payment to his prime contractor;~~

~~(b) Whether the owner has paid the entire amount of a specified payment to his prime contractor; and~~

~~(c) The amount withheld by the owner from a specified payment to the prime contractor and the condition or reason for the withholding.~~**]** **(Deleted by amendment.)**

Sec. 12. **[**~~The amendatory provisions of this act apply only to agreements entered into on or after October 1, 2009, between a contractor and an owner of a residence.~~**] (Deleted by amendment.)**

Sec. 13. **[**~~NRS 624.440 and 624.450 are hereby repealed.~~**] (Deleted by amendment.)**

Sec. 14. **This act applies to licenses issued or renewed pursuant to chapter 624 of NRS after October 1, 2009.**

[

~~TEXT OF REPEALED SECTIONS~~

~~624.440 "Qualified services" defined. "Qualified services" means any construction, remodeling, repair or improvement performed by a residential contractor on a single-family residence occupied by the owner of the residence.~~

~~624.450 "Residential contractor" defined. "Residential contractor" means a contractor who is licensed pursuant to this chapter and who contracts with the owner of a single-family residence to perform qualified services.~~**]**

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 227.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 332.

AN ACT relating to public welfare; requiring licensure of certain **foster care** agencies that provide services relating to the placement of children in foster care; requiring licensure of **[**~~treatment~~**]** **specialized** foster homes; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 4-7 of this bill require persons who wish to operate **[**~~an~~**]** **a foster care** agency that assists an agency which provides child welfare services in placing or arranging for the placement of children in foster care to obtain a license from the Division of Child and Family Services of the Department of Health and Human Services.

Existing law requires persons who operate a family foster home or group foster home to obtain a license from the appropriate licensing authority. (Chapter 424 of NRS) The Division of Child and Family Services has adopted regulations for family and group foster homes pursuant to this chapter and has also adopted similar standards for treatment homes, which are a specialized type of foster home. (NAC 424.075, 424.650-424.705) **Section 3** of this bill defines what constitutes a **[**~~"treatment~~**]** **"specialized** foster home" and **sections 8-14** of this bill **[**~~put into~~**]** **set forth in** statute the requirement that persons who operate a **[**~~treatment~~**]** **specialized** foster home

obtain a license from the appropriate licensing authority. (NRS 424.010, 424.014, 424.020, 424.030, 424.0365, 424.040, 424.085)

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

Section 1. Chapter 424 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ~~[~~"Agency which places children for foster care"~~]~~ ***"Foster care agency" means a nonprofit corporation, ~~[organized pursuant to chapter 82 of NRS and]~~ for-profit corporation or sole proprietorship, which is licensed by the Division, that assists an agency which provides child welfare services in the placement of children in foster care, including, without limitation, providing ~~[services relating to the screening,]~~ :***

1. Screening, recruiting and training of persons to provide family foster care ~~[. The term includes a nonprofit corporation which operates a treatment foster home and places children for care in its treatment foster home.]~~ , specialized foster care and group foster care;

2. Case management services;

3. Referral services;

4. Supportive services for persons providing foster care to meet the needs of children in foster care;

5. Coordination of case plans and treatment plans; and

6. Services, or facilitating the provision of such services, to children placed in foster care.

Sec. 3. ~~[~~"Treatment"~~]~~ ***"Specialized foster home" means a ~~[natural person, partnership, firm, corporation or association providing]~~ family home which provides full-time care and services for one to six children who:***

1. Require special care for physical, mental or emotional issues;

2. Are under ~~[18]~~ 21 years of age;

3. Are not related within the first degree of consanguinity or affinity to any natural person maintaining or operating the home; ~~[and]~~

4. Are received, cared for and maintained for compensation ~~[or otherwise, including the provision of permanent free care.]~~ ; and

5. Are in the custody of and placed in the home by an agency which provides child welfare services.

Sec. 4. ***The Division shall:***

1. Establish reasonable minimum standards for foster care agencies . ~~[which place children for foster care .]~~

2. In consultation with foster care agencies and each agency which provides child welfare services, adopt:

(a) Regulations concerning the operation of ~~[an agency which places children for]~~ a foster care ~~[.]~~ agency, including, without limitation, a foster care agency which provides family foster care, specialized foster care or

group foster care for children placed by an agency which provides child welfare services.

(b) Regulations regarding the issuance of nonrenewable provisional licenses to operate a foster care agency. The regulations must provide that a provisional license is valid for not more than 1 year.

(c) Any other regulations necessary to carry out its powers and duties regarding the placement of children for foster care, including, without limitation, such regulations necessary to ensure compliance with the provisions of this chapter and any regulations adopted pursuant thereto.

3. Prescribe a reasonable fee for the issuance of a provisional license and for the issuance and renewal of a license to operate [an agency which places children for] a foster care [.] agency.

Sec. 5. ***1. Except as otherwise provided in this section, a person shall not operate a foster care agency or otherwise assist an agency which provides child welfare services in placing or in arranging the placement of any child in foster care without obtaining a license pursuant to section 6 of this act. This subsection applies to agents, servants, physicians and attorneys of the parents or guardians of a child.***

2. This section does not prohibit a parent or guardian from placing or arranging the placement of, or assisting in placing or arranging the placement of, his child in foster care.

Sec. 6. ***1. An application for a license to operate [an agency which places children for] a foster care agency must be in a form prescribed by the Division. Such a license is effective for [1 year] 2 years after the date of its issuance and may be renewed [annually.] upon expiration.***

2. An applicant must provide reasonable and satisfactory assurance to the Division that the applicant will conform to the standards established and the regulations adopted by the Division pursuant to section 4 of this act.

3. Upon application for renewal, the Division may renew a license if the Division determines that the licensee conforms to the standards established and the regulations adopted by the Division pursuant to section 4 of this act.

4. The Division may issue a nonrenewable provisional license in accordance with the regulations adopted by the Division pursuant to section 4 of this act.

Sec. 7. ***1. After notice and hearing, the Division may:***

(a) Deny an application for a license to operate [an agency which places children for] a foster care agency if the Division determines that the applicant does not meet the standards established and comply with the regulations adopted by the Division pursuant to section 4 of this act.

(b) Upon a finding of deficiency, require a foster care agency to prepare a plan of corrective action and, within 90 days or a shorter period prescribed by the Division, require the foster care agency to complete the plan of corrective action.

(c) Refuse to renew a license or may revoke a license or provisional license if the Division finds that the ~~[agency which places children for]~~ foster care agency has refused or failed to meet any of the established standards or has violated any of the regulations adopted by the Division pursuant to section 4 of this act.

2. A notice of the time and place of the hearing must be mailed to the last known address of the applicant or licensee at least 15 days before the date fixed for the hearing.

3. When an order of the Division is appealed to the district court, the trial may be de novo.

Sec. 8. NRS 424.010 is hereby amended to read as follows:

424.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 424.012 to 424.017, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 9. NRS 424.014 is hereby amended to read as follows:

424.014 "Foster home" includes a family foster home **,** ***~~[treatment]~~ specialized foster home*** and group foster home.

Sec. 10. NRS 424.020 is hereby amended to read as follows:

424.020 1. The Division, in consultation with each licensing authority in a county whose population is 100,000 or more, shall adopt regulations to:

(a) Establish procedures and requirements for the licensure of family foster homes **,** ***~~[treatment]~~ specialized foster homes*** and group foster homes; and

(b) Monitor such licensure.

2. The Division, in cooperation with the State Board of Health and the State Fire Marshal, shall:

(a) Establish reasonable minimum standards for family foster homes **,** ***~~[treatment]~~ specialized foster homes*** and group foster homes.

(b) Prescribe rules for the regulation of family foster homes **,** ***~~[treatment]~~ specialized foster homes*** and group foster homes.

3. All family foster homes **,** ***~~[treatment]~~ specialized foster homes*** and group foster homes licensed pursuant to this chapter must conform to the standards established and the rules prescribed in subsection 2.

Sec. 11. NRS 424.030 is hereby amended to read as follows:

424.030 1. No person may conduct a family foster home **,** ***a ~~[treatment]~~ specialized foster home*** or a group foster home without receiving a license to do so from the licensing authority.

2. No license may be issued to a family foster home **,** ***a ~~[treatment]~~ specialized foster home*** or a group foster home until a fair and impartial investigation of the home and its standards of care has been made by the licensing authority or its designee.

3. Any family foster home **,** ***~~[treatment]~~ specialized foster home*** or group foster home that conforms to the established standards of care and prescribed rules must receive a regular license from the licensing authority, which

~~[must]~~ ***may*** be in force for ~~[1 year]~~ ***2 years*** after the date of issuance. On reconsideration of the standards maintained, the license may be renewed ~~[annually.]~~ ***upon expiration.***

4. If a family foster home ***, a*** ~~*[treatment]*~~ ***specialized foster home*** or ***a*** group foster home does not meet minimum licensing standards but offers values and advantages to a particular child or children and will not jeopardize the health and safety of the child or children placed therein, the family foster home ***,*** ~~*[treatment]*~~ ***specialized foster home*** or group foster home may be issued a special license, which must be in force for 1 year after the date of issuance and may be renewed annually. No foster children other than those specified on the license may be cared for in the home.

5. The license must show:

(a) The name of the persons licensed to conduct the family foster home ***,*** ~~*[treatment]*~~ ***specialized foster home*** or group foster home.

(b) The exact location of the family foster home ***,*** ~~*[treatment]*~~ ***specialized foster home*** or group foster home.

(c) The number of children that may be received and cared for at one time.

(d) If the license is a special license issued pursuant to subsection 4, the name of the child or children for whom the family foster home ***,*** ~~*[treatment]*~~ ***specialized foster home*** or group foster home is licensed to provide care.

6. No family foster home ***,*** ~~*[treatment]*~~ ***specialized foster home*** or group foster home may receive for care more children than are specified in the license.

7. In consultation with each licensing authority in a county whose population is 100,000 or more, the Division may adopt regulations regarding the issuance of provisional and special licenses.

Sec. 12. NRS 424.0365 is hereby amended to read as follows:

424.0365 1. A licensee that operates a ~~*[treatment]*~~ ***specialized foster home or a*** group foster home shall ensure that each employee who comes into direct contact with children in the home receives training within 30 days after employment and annually thereafter. Such training must include, without limitation, instruction concerning:

(a) Controlling the behavior of children;

(b) Policies and procedures concerning the use of force and restraint on children;

(c) The rights of children in the home;

(d) Suicide awareness and prevention;

(e) The administration of medication to children;

(f) Applicable state and federal constitutional and statutory rights of children in the home;

(g) Policies and procedures concerning other matters affecting the health, welfare, safety and civil and other rights of children in the home; and

(h) Such other matters as required by the licensing authority or pursuant to regulations of the Division.

2. The Division shall adopt regulations necessary to carry out the provisions of this section.

Sec. 13. NRS 424.040 is hereby amended to read as follows:

424.040 A licensing authority or its designee shall visit every licensed family foster home **, *~~[treatment]~~ specialized foster home*** and group foster home as often as necessary to ensure that proper care is given to the children.

Sec. 14. NRS 424.085 is hereby amended to read as follows:

424.085 1. Except as otherwise provided by specific statute, a person who is licensed by the licensing authority pursuant to NRS 424.030 to conduct a family foster home ***, a ~~[treatment]~~ specialized foster home*** or ***a*** group foster home is not liable for any act of a child in his foster care unless the person licensed by the licensing authority took an affirmative action that contributed to the act of the child.

2. The immunity from liability provided pursuant to this section includes, without limitation, immunity from any fine, penalty, debt or other liability incurred as a result of the act of the child.

Sec. 15. NRS 432B.180 is hereby amended to read as follows:

432B.180 The Division of Child and Family Services shall:

1. Administer any money granted to the State by the Federal Government.

2. Plan, coordinate and monitor the delivery of child welfare services provided throughout the State.

3. Provide child welfare services directly or arrange for the provision of those services in a county whose population is less than 100,000.

4. Coordinate its activities with and assist the efforts of any law enforcement agency, a court of competent jurisdiction, an agency which provides child welfare services and any public or private organization which provides social services for the prevention, identification and treatment of abuse or neglect of children and for permanent placement of children.

5. Involve communities in the improvement of child welfare services.

6. Evaluate all child welfare services provided throughout the State and, if an agency which provides child welfare services is not complying with any federal or state law relating to the provision of child welfare services, regulations adopted pursuant to those laws or statewide plans or policies relating to the provision of child welfare services, require corrective action of the agency which provides child welfare services.

7. If an agency which provides child welfare services fails to take corrective action required pursuant to subsection 6 within a reasonable period, take one or more of the following actions against the agency which provides child welfare services:

(a) Withhold money from the agency which provides child welfare services;

(b) Impose an administrative fine against the agency which provides child welfare services;

(c) Provide the agency which provides child welfare services with direct supervision and recover the cost and expenses incurred by the Division in providing such supervision; and

(d) Require the agency which provides child welfare services to determine whether it is necessary to impose disciplinary action that is consistent with the personnel rules of the agency which provides child welfare services against an employee who substantially contributes to the noncompliance of the agency which provides child welfare services with the federal or state laws, regulations adopted pursuant to such laws or statewide plans or policies, including, without limitation, suspension of the employee without pay, if appropriate.

➥ The Division shall adopt regulations to carry out the provisions of this subsection, including, without limitation, regulations which prescribe the circumstances under which action must be taken against an agency which provides child welfare services for failure to take corrective action and which specify that any such action by the Division must not impede the provision of child welfare services.

8. In consultation with each agency which provides child welfare services, request sufficient money for the provision of child welfare services throughout this State.

9. Deposit any money received from the administrative fines imposed pursuant to this section with the State Treasurer for credit to the State General Fund. The State Treasurer shall account separately for the money deposited pursuant to this subsection. The money in the account may only be used by the Division to improve the provision of child welfare services in this State, including, without limitation:

(a) To pay the costs associated with providing training and technical assistance and conducting quality improvement activities for an agency which provides child welfare services to assist the agency in any area in which the agency has failed to take corrective action; and

(b) Hiring a qualified consultant to conduct such training, technical assistance and quality improvement activities.

10. Coordinate with and assist:

(a) Each agency which provides child welfare services in recruiting, training and licensing providers of family foster care as defined in NRS 424.017; ~~[and]~~

(b) ***Each*** ~~*[agency which places children for]*~~ ***foster care agency licensed pursuant to sections 4 to 7, inclusive, of this act in screening, recruiting and training providers of family foster care as defined in NRS 424.017; and***

(c) A nonprofit or community-based organization in recruiting and training providers of family foster care as defined in NRS 424.017 if the Division determines that the organization provides a level of training that is equivalent to the level of training provided by an agency which provides child welfare services.

Sec. 16. NRS 392.210 is hereby amended to read as follows:

392.210 1. Except as otherwise provided in subsection 2, a parent, guardian or other person who has control or charge of any child and to whom notice has been given of the child's truancy as provided in NRS 392.130 and 392.140, and who fails to prevent the child's subsequent truancy within that school year, is guilty of a misdemeanor.

2. A person who is licensed pursuant to NRS 424.030 to conduct a family foster home ***, a*** ~~***[treatment]***~~ ***specialized foster home*** or ***a*** group foster home is liable pursuant to subsection 1 for a child in his foster care only if the person has received notice of the truancy of the child as provided in NRS 392.130 and 392.140, and negligently fails to prevent the subsequent truancy of the child within that school year.

Sec. 17. NRS 477.030 is hereby amended to read as follows:

477.030 1. Except as otherwise provided in this section, the State Fire Marshal shall enforce all laws and adopt regulations relating to:

(a) The prevention of fire.

(b) The storage and use of:

(1) Combustibles, flammables and fireworks; and

(2) Explosives in any commercial construction, but not in mining or the control of avalanches,

➥ under those circumstances that are not otherwise regulated by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(c) The safety, access, means and adequacy of exit in case of fire from mental and penal institutions, facilities for the care of children, foster homes, residential facilities for groups, facilities for intermediate care, nursing homes, hospitals, schools, all buildings, except private residences, which are occupied for sleeping purposes, buildings used for public assembly and all other buildings where large numbers of persons work, live or congregate for any purpose. As used in this paragraph, "public assembly" means a building or a portion of a building used for the gathering together of 50 or more persons for purposes of deliberation, education, instruction, worship, entertainment, amusement or awaiting transportation, or the gathering together of 100 or more persons in establishments for drinking or dining.

(d) The suppression and punishment of arson and fraudulent claims or practices in connection with fire losses.

➥ Except as otherwise provided in subsection 12, the regulations of the State Fire Marshal apply throughout the State, but except with respect to state-owned or state-occupied buildings, his authority to enforce them or conduct investigations under this chapter does not extend to a school district except as otherwise provided in NRS 393.110, or a county whose population is 100,000 or more or which has been converted into a consolidated municipality, except in those local jurisdictions in those counties where he is requested to exercise that authority by the chief officer of the organized fire

department of that jurisdiction or except as otherwise provided in a regulation adopted pursuant to paragraph (b) of subsection 2.

2. The State Fire Marshal may:

(a) Set standards for equipment and appliances pertaining to fire safety or to be used for fire protection within this State, including the threads used on fire hose couplings and hydrant fittings; and

(b) Adopt regulations based on nationally recognized standards setting forth the requirements for fire departments to provide training to firefighters using techniques or exercises that involve the use of fire or any device that produces or may be used to produce fire.

3. The State Fire Marshal shall cooperate with the State Forester Firewarden in the preparation of regulations relating to standards for fire retardant roofing materials pursuant to paragraph (e) of subsection 1 of NRS 472.040.

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Health and Human Services in establishing reasonable minimum standards for overseeing the safety of and directing the means and adequacy of exit in case of fire from family foster homes ***, ~~[treatment]~~ specialized foster homes*** and group foster homes.

5. The State Fire Marshal shall coordinate all activities conducted pursuant to 15 U.S.C. §§ 2201 et seq. and receive and distribute money allocated by the United States pursuant to that act.

6. Except as otherwise provided in subsection 10, the State Fire Marshal shall:

(a) Investigate any fire which occurs in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature.

(b) Investigate any fire which occurs in a county whose population is 100,000 or more or which has been converted into a consolidated municipality, and from which a death results or which is of a suspicious nature, if requested to do so by the chief officer of the fire department in whose jurisdiction the fire occurs.

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

(d) Cooperate with any local fire department in the investigation of any report received pursuant to NRS 629.045.

(e) Provide specialized training in investigating the causes of fires if requested to do so by the chief officer of an organized fire department.

7. The State Fire Marshal shall put the National Fire Incident Reporting System into effect throughout the State and publish at least annually a summary of data collected under the System.

8. The State Fire Marshal shall provide assistance and materials to local authorities, upon request, for the establishment of programs for public education and other fire prevention activities.

9. The State Fire Marshal shall:

(a) Except as otherwise provided in subsection 12 and NRS 393.110, assist in checking plans and specifications for construction;

(b) Provide specialized training to local fire departments; and

(c) Assist local governments in drafting regulations and ordinances,

➥ on request or as he deems necessary.

10. Except as otherwise provided in this subsection, in a county other than one whose population is 100,000 or more or which has been converted into a consolidated municipality, the State Fire Marshal shall, upon request by a local government, delegate to the local government by interlocal agreement all or a portion of his authority or duties if the local government's personnel and programs are, as determined by the State Fire Marshal, equally qualified to perform those functions. If a local government fails to maintain the qualified personnel and programs in accordance with such an agreement, the State Fire Marshal shall revoke the agreement. The provisions of this subsection do not apply to the authority of the State Fire Marshal to adopt regulations pursuant to paragraph (b) of subsection 2.

11. The State Fire Marshal may, as a public safety officer or as a technical expert on issues relating to hazardous materials, participate in any local, state or federal team or task force that is established to conduct enforcement and interdiction activities involving:

(a) Commercial trucking;

(b) Environmental crimes;

(c) Explosives and pyrotechnics;

(d) Drugs or other controlled substances; or

(e) Any similar activity specified by the State Fire Marshal.

12. Except as otherwise provided in this subsection, any regulations of the State Fire Marshal concerning matters relating to building codes, including, without limitation, matters relating to the construction, maintenance or safety of buildings, structures and property in this State:

(a) Do not apply in a county whose population is 400,000 or more which has adopted a code at least as stringent as the International Fire Code and the International Building Code, published by the International Code Council. To maintain the exemption from the applicability of the regulations of the State Fire Marshal pursuant to this subsection, the code of the county must be at least as stringent as the most recently published edition of the International Fire Code and the International Building Code within 1 year after publication of such an edition.

(b) Apply in a county described in paragraph (a) with respect to state-owned or state-occupied buildings or public schools in the county and in those local jurisdictions in the county in which the State Fire Marshal is requested to exercise that authority by the chief executive officer of that

jurisdiction. As used in this paragraph, "public school" has the meaning ascribed to it in NRS 385.007.

Sec. 18. The Division of Child and Family Services of the Department of Health and Human Services shall, on or before ~~[October 1, 2009,]~~ **July 1, 2010,** adopt the regulations required pursuant to section 4 of this act and NRS 424.020, as amended by section 10 of this act.

Sec. 19. This act becomes effective upon passage and approval for the purpose of adopting regulations and on January 1, ~~[2010,]~~ **2011,** for all other purposes.

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 235.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 194.

AN ACT relating to fuel taxes; providing for the taxation of ethanol **and methanol** as ~~[a]~~ motor vehicle ~~[fuel]~~ **fuels** and biodiesel and blends of biodiesel and petroleum-based diesel as special fuels; making various changes concerning the licensure and regulation of persons who manufacture special fuel; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the taxation of certain motor vehicle fuels, including gasoline. (NRS 365.060, 365.175-365.192) **Section 3** of this bill includes ethanol **and methanol** within the definition of "motor vehicle fuel" and thereby requires ethanol **and methanol** to be taxed in the same manner and at the same rate as gasoline. In addition, the inclusion of ethanol **and methanol** as ~~[a]~~ motor vehicle ~~[fuel]~~ **fuels** will subject dealers, suppliers, exporters and transporters of ethanol **and methanol** to the same requirements and penalties currently applicable to dealers, suppliers, exporters and transporters of gasoline, including, without limitation, requirements concerning licensing, bonding, recordkeeping and the collection and payment of taxes. (NRS 365.270, 365.290, 365.322, 365.324, 365.330, 365.500-365.530, 365.570-365.605) **Sections 1.7 and 1.9 of this bill authorize the Department of Motor Vehicles to take certain administrative action against a person licensed pursuant to chapter 365 of NRS or a person who acts as a motor vehicle fuel supplier without a license, including the imposition of administrative fines and the suspension or revocation of the license of a licensee under certain circumstances.**

Existing law provides for the taxation of certain special fuels for motor vehicles, including any combustible gas or liquid other than the fuels which are taxed as motor vehicle fuels pursuant to chapter 365 of NRS, and any

emulsion of water-phased hydrocarbon fuel used in a motor vehicle. (NRS 366.060, 366.190, 366.195) **Sections 5, 6 and 10** of this bill provide for the taxation of biodiesel and blends of biodiesel and **a** petroleum-based ~~[diesel]~~ **product** as special fuels.

Section 7 of this bill defines a "special fuel manufacturer" as a person who manufactures, blends, produces, refines, prepares, distills or compounds only special fuel containing biodiesel or biodiesel blend in this State for his personal use in this State or for sale or delivery in **or outside of** this State. **Section 11** of this bill exempts a special fuel manufacturer from regulation as a special fuel supplier. **Section 14** of this bill prohibits a person from acting as a special fuel manufacturer without first obtaining a license from the Department of Motor Vehicles. The Department is authorized to adopt regulations relating to the issuance of a license to a special fuel manufacturer and to collect fees for the issuance of such a license. (NRS 366.220)

~~[Section 19]~~ **Sections 18.5 and 19.5** of this bill ~~[requires]~~ **require** a special fuel manufacturer to file ~~[quarterly]~~ tax returns with the Department ~~[.]~~ **in the same manner as a special fuel dealer. (NRS 366.370, 366.386)** **Section 21** of this bill requires a special fuel manufacturer to pay the taxes on special fuels imposed by chapter 366 of NRS. (NRS 366.540) **Section 8** of this bill requires a special fuel manufacturer to submit certain monthly reports to the Department. ~~[Section 20 of this bill provides for the imposition of delinquent fees, penalties and interest if a special fuel manufacturer fails to file a tax return or pay a tax by the date due.]~~ **Section 15** of this bill provides that the Department must require a special fuel manufacturer who is habitually delinquent in the payment of special fuel taxes to execute a bond payable to the State in an amount of not less than $2,500. (NRS 366.235) **Section 22** of this bill requires a special fuel manufacturer to keep certain records as required by the Department. (NRS 366.685)

Sections 8.5 and 23.3 of this bill authorize the Department to take certain administrative action against a person licensed pursuant to chapter 366 of NRS or a person who acts as special fuel supplier without a license, including the imposition of administrative fines and the suspension or revocation of the license of a licensee under certain circumstances. (NRS 366.735) A special fuel manufacturer or any other person who makes a false or fraudulent report with the intent to evade the taxes imposed pursuant to chapter 366 of NRS is guilty of a gross misdemeanor. (NRS 366.710) A special fuel manufacturer who violates any other provision of chapter 366 of NRS as amended by this bill is guilty of a misdemeanor. (NRS 366.720, 366.730)

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

Section 1. Chapter 365 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 1.3 to 1.9, inclusive, of this act.**

Sec. 1.3. ***"Ethanol" means denatured ethyl alcohol [derived from agricultural products and] produced for use as a fuel.***

Sec. 1.5. ***"Methanol" means anhydrous methyl alcohol produced for use as a fuel.***

Sec. 1.7. ***1. The Department may take disciplinary action in accordance with subsection 2 against any person who, below the terminal rack:***

(a) Sells or stores for personal consumption any motor vehicle fuel for a use which the person selling or storing the fuel knows, or has reason to know, is a taxable use of the fuel and does not report and pay the applicable tax to the Department;

(b) Willfully alters the volume or composition of any motor vehicle fuel which is intended for a taxable use and does not report and pay the applicable tax to the Department; or

(c) Sells motor vehicle fuel which the person selling the fuel knows, or has reason to know, is formulated in a manner that violates any provision of state or federal law governing standards for the formulation of motor vehicle fuel.

2. For any violation described in subsection 1, the Department may:

(a) For a first violation within 4 years, impose an administrative fine of not more than $2,500 and suspend any license issued to the person pursuant to the provisions of this chapter for not more than 30 days;

(b) For a second violation within 4 years, impose an administrative fine of not more than $5,000 and suspend any license issued to the person pursuant to the provisions of this chapter for not more than 60 days; and

(c) For a third or subsequent violation within 4 years, impose an administrative fine of not more than $10,000 and revoke any license issued to the person pursuant to the provisions of this chapter.

Sec. 1.9. ***1. If the Department determines through an audit that a retailer has sold motor vehicle fuel which substantially exceeds the ethanol tolerance for motor vehicle fuel prescribed by federal law, the Department may:***

(a) For a first violation and each subsequent violation committed during the first violation year, impose an administrative fine of not more than $1,000 on the retailer and the supplier of the motor vehicle fuel. The total fines imposed on a person pursuant to this paragraph must not exceed $100,000.

(b) For each violation committed during the second violation year, impose an administrative fine of not more than $2,500 on the retailer and the supplier of the motor vehicle fuel and suspend any license issued to the retailer or the supplier pursuant to the provisions of this chapter for not more than 60 days. The total fines imposed on a person pursuant to this paragraph must not exceed $250,000.

(c) For each violation committed during the third or subsequent violation year, impose an administrative fine of not more than $5,000 on

the retailer and the supplier of the motor vehicle fuel and permanently revoke any license issued to the retailer or the supplier pursuant to the provisions of this chapter. The total fines imposed on a person pursuant to this paragraph must not exceed $500,000.

2. As used in this section:

(a) "Substantially exceeds" means that a motor vehicle fuel contains a concentration of alcohol or is formulated in a manner which exceeds the standards for the formulation of motor vehicle fuel established by federal law in an amount established by the Department.

(b) "Supplier" includes a person who acts as a supplier of motor vehicle fuel but who is not licensed to engage in business as a supplier pursuant to the provisions of this chapter.

(c) "Violation year" means any calendar year in which the retailer or supplier commits a violation.

Sec. 2. NRS 365.010 is hereby amended to read as follows:

365.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 365.015 to 365.092, inclusive, ***and*** ~~*[section 1]*~~ ***sections 1.3 and 1.5 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 365.060 is hereby amended to read as follows:

365.060 "Motor vehicle fuel" means gasoline, natural gasoline, casing-head gasoline ***, methanol, ethanol*** or any other inflammable or combustible liquid, regardless of the name by which the liquid is known or sold, the chief use of which in this State is for the propulsion of motor vehicles, motorboats or aircraft other than jet or turbine-powered aircraft. The term does not include kerosene, gas oil, fuel oil, fuel for jet or turbine-powered aircraft, diesel fuel, ***biodiesel, biodiesel blend,*** liquefied petroleum gas and an emulsion of water-phased hydrocarbon fuel, as that term is defined in NRS 366.026.

Sec. 3.5. **NRS 365.600 is hereby amended to read as follows:**

365.600 1. ~~[The]~~ ***Except as otherwise provided in sections 1.7 and 1.9 of this act, the*** Department may impose an administrative fine, not to exceed $2,500, for a violation of any provision of this chapter, or any regulation or order adopted or issued pursuant thereto.

2. The Department shall afford to any person ~~[so]~~ fined ***pursuant to this section or section 1.7 or 1.9 of this act*** an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

~~[2.]~~ ***3.*** All administrative fines collected by the Department pursuant to subsection 1 ***or section 1.7 or 1.9 of this act*** must be deposited with the State Treasurer to the credit of the State Highway Fund.

~~[3.]~~ ***4.*** In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of this chapter and any regulation or order adopted or issued pursuant thereto by injunction or other appropriate remedy. The Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 4. Chapter 366 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to ~~[8,]~~ **8.5,** inclusive, of this act.

Sec. 5. ***"Biodiesel" means a fuel composed of mono-alkyl esters of long-chain fatty acids*** ~~*[derived from vegetable oils or animal fats, including, without limitation, straight vegetable oil and lipid-bearing algae.]*~~ ***or any other fuel sold or labeled as biodiesel which is suitable for use as a fuel in a motor vehicle.***

Sec. 6. ***"Biodiesel blend" means a blend of biodiesel and a petroleum-based*** ~~*[diesel]*~~ ***product suitable for use as a fuel in a motor vehicle.***

Sec. 7. ***"Special fuel manufacturer" means a person who manufactures, blends, produces, refines, prepares, distills or compounds only special fuel containing biodiesel or biodiesel blend in this State for his personal use in this State or for sale or delivery in or outside of this State.***

Sec. 8. ***Each special fuel manufacturer shall, not later than the last day of each month, submit to the Department a written report which sets forth:***

1. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer manufactured, blended, produced, refined, prepared, distilled or compounded in this State;

2. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer manufactured, blended, produced, refined, prepared, distilled or compounded for personal use in this State;

3. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer sold or delivered in this State;

4. The name and mailing address of each person to whom the special fuel manufacturer sold or delivered special fuel containing biodiesel or biodiesel blend in this State; and

5. The number of gallons of special fuel containing biodiesel or biodiesel blend the special fuel manufacturer sold or distributed to each person described in subsection 4.

Sec. 8.5. 1. If the Department determines through an audit that a retailer has sold special fuel containing biodiesel or biodiesel blend which substantially exceeds the biodiesel tolerance for the biodiesel blend posted by the retailer, the Department may:

(a) For a first violation and each subsequent violation committed during the first violation year, impose an administrative fine of not more than $1,000 on the retailer and the supplier of the special fuel. The total fines imposed on a person pursuant to this paragraph must not exceed $100,000.

(b) For each violation committed during the second violation year, impose an administrative fine of not more than $2,500 on the retailer and the supplier of the special fuel and suspend any license issued to the retailer or the supplier pursuant to the provisions of this chapter for not more than 60 days. The total fines imposed on a person pursuant to this paragraph must not exceed $250,000.

(c) For each violation committed during the third or subsequent violation year, impose an administrative fine of not more than $5,000 on the retailer and the supplier of the special fuel and permanently revoke any license issued to the retailer or the supplier pursuant to the provisions of this chapter. The total fines imposed on a person pursuant to this paragraph must not exceed $500,000.

2. As used in this section:

(a) "Substantially exceeds" means that a special fuel contains a biodiesel blend which exceeds the total volume displayed on the special fuel pump in an amount established by the Department.

(b) "Supplier" includes a person who acts as a supplier of special fuel but who is not licensed to engage in business as a supplier pursuant to the provisions of this chapter.

(c) "Violation year" means any calendar year in which the retailer or supplier commits a violation.

Sec. 9. NRS 366.020 is hereby amended to read as follows:

366.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 366.025 to 366.100, inclusive, ***and sections 5, 6 and 7 of this act*** have the meanings ascribed to them in those sections.

Sec. 10. NRS 366.060 is hereby amended to read as follows:

366.060 "Special fuel" means any combustible gas or liquid used for the generation of power for the propulsion of motor vehicles, including ***, without limitation, biodiesel, biodiesel blend and*** an emulsion of water-phased hydrocarbon fuel. The term does not include motor vehicle fuel as defined in chapter 365 of NRS.

Sec. 11. NRS 366.070 is hereby amended to read as follows:

366.070 ***1.*** "Special fuel supplier" means a person who:

~~[1.]~~ ***(a)*** Imports or acquires immediately upon importation into this State special fuel from within or without a state, territory or possession of the United States or the District of Columbia into a terminal located in this State;

~~[2.]~~ ***(b)*** Produces, manufactures or refines special fuel in this State; or

~~[3.]~~ ***(c)*** Otherwise acquires for distribution in this State special fuel with respect to which there has been no previous taxable sale or use.

2. The term does not include a special fuel manufacturer.

Sec. 12. NRS 366.150 is hereby amended to read as follows:

366.150 1. The Department or its authorized agents may:

(a) Examine the books, papers, records and equipment of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user ***, special fuel manufacturer*** or any other person transporting or storing special fuel;

(b) Investigate the character of the disposition which any person makes of special fuel; and

(c) Stop and inspect a motor vehicle that is using or transporting special fuel,

➥ to determine whether all excise taxes due pursuant to this chapter are being properly reported and paid.

2. The fact that the books, papers, records and equipment described in paragraph (a) of subsection 1 are not maintained in this State at the time of demand does not cause the Department to lose any right of examination pursuant to this chapter at the time and place those books, papers, records and equipment become available.

3. If a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter **,** ~~[or]~~ special fuel user ***or special fuel manufacturer*** wishes to keep proper books and records pertaining to business done in Nevada elsewhere than within the State of Nevada for inspection as provided in this section, he must pay a fee for the examination in an amount per day equal to the amount set by law for out-of-state travel for each day or fraction thereof during which the examiner is actually engaged in examining those books and records, plus the actual expenses of the examiner during the time that the examiner is absent from this State for the purpose of making the examination, but the time must not exceed 1 day going to and 1 day coming from the place where the examination is to be made in addition to the number of days or fractions thereof the examiner is actually engaged in auditing those books and records. Not more than two such examinations may be charged against any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter **,** ~~[or]~~ special fuel user ***or special fuel manufacturer*** in any year.

4. Any money received must be deposited by the Department to the credit of the fund or operating account from which the expenditures for the examination were paid.

5. Upon the demand of the Department, each special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter **,** ~~[or]~~ special fuel user ***or special fuel manufacturer*** shall furnish a statement showing the contents of the records to such extent and in such detail and form as the Department may require.

Sec. 13. NRS 366.160 is hereby amended to read as follows:

366.160 1. All records of mileage operated, origin and destination points within this State, equipment operated in this State, gallons or cubic feet consumed ~~[,]~~ and tax paid must at all reasonable times be open to the public.

2. All supporting schedules, invoices and other pertinent papers relative to the business affairs and operations of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter **,** ~~[or]~~ special fuel user ~~[,]~~ ***or special fuel manufacturer,*** and any information obtained by an investigation of the records and equipment of any special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter **,** ~~[or]~~ special fuel user ~~[,]~~ ***or special fuel manufacturer,*** shall be deemed confidential and must not be revealed to any person except as necessary to administer this chapter or as otherwise provided by NRS 239.0115 or by any other law.

Sec. 14. NRS 366.220 is hereby amended to read as follows:

366.220 1. Except as otherwise provided in this chapter:

(a) Before becoming a special fuel dealer, special fuel supplier, special fuel exporter, special fuel transporter ***,*** ~~[or]~~ special fuel user ~~[,]~~ ***or special fuel manufacturer,*** a person must apply to the Department, on forms to be prescribed by the Department, for a license authorizing the applicant to engage in business as a special fuel dealer, special fuel supplier, special fuel exporter ***,*** ~~[or]~~ special fuel transporter ~~[,]~~ ***or special fuel manufacturer,*** or to operate as a special fuel user.

(b) It is unlawful for any person to be:

(1) A special fuel dealer without holding a license as a special fuel dealer pursuant to this chapter.

(2) A special fuel supplier without holding a license as a special fuel supplier pursuant to this chapter.

(3) A special fuel exporter without holding a license as a special fuel exporter pursuant to this chapter.

(4) A special fuel transporter without holding a license as a special fuel transporter pursuant to this chapter.

(5) A special fuel user without holding a license as a special fuel user pursuant to this chapter.

(6) A special fuel manufacturer without holding a license as a special fuel manufacturer pursuant to this chapter.

2. The Department may adopt regulations relating to the issuance of any license pursuant to this chapter and the collection of fees therefor.

Sec. 14.3. **NRS 366.221 is hereby amended to read as follows:**

366.221 1. Except as otherwise provided in subsection 2, a special fuel user's license is not required of the following classes of special fuel users:

(a) Operators of motor vehicles who make occasional trips into this State for service or repair.

(b) Operators of house coaches as defined in NRS 484.067.

(c) Operators of motor vehicles having a declared gross weight of 26,000 pounds or less.

(d) Operators of unladen motor vehicles purchased in this State for the trip from the point of delivery to the state boundary.

(e) Operators of motor vehicles who make occasional trips into or across this State for nonprofit or eleemosynary purposes.

(f) Operators of motor vehicles which are operated exclusively within this State.

2. A person otherwise exempt pursuant to subsection 1 who does not purchase special fuel in this State in an amount commensurate with his consumption of special fuel in the propulsion of motor vehicles on the highways of this State shall secure a special fuel user's license.

Sec. 14.7. **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 fee for a temporary permit for special fuel is $30 and is not refundable.

2. Except as otherwise provided in subsection 3, 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. 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. The Department may adopt regulations relating to the issuance of a temporary permit for special fuel pursuant to this section.

Sec. 15. NRS 366.235 is hereby amended to read as follows:

366.235 1. An applicant for or holder of a license as a special fuel supplier or special fuel dealer shall provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and interest due the State of Nevada. The total amount of the bond or bonds of any holder of such a license must be fixed by the Department at not less than three times the estimated maximum monthly tax, determined in such a manner as the Department deems proper, but the amount must not be less than $1,000 for a special fuel supplier and must not be less than $100 for a special fuel dealer. If a special fuel supplier or special fuel dealer is habitually delinquent in the payment of amounts due pursuant to this chapter, the Department may increase the amount of his security to not more than five times the estimated maximum monthly tax. When cash or a savings certificate, certificate of deposit or investment certificate is used, the amount required must be rounded off to the next larger integral multiple of $100.

2. If a special fuel user ***or special fuel manufacturer*** is habitually delinquent in the payment of amounts due pursuant to this chapter, the Department shall require the special fuel user ***or special fuel manufacturer*** to provide a bond executed by him as principal, and by a corporation qualified pursuant to the laws of this State as surety, payable to the State of Nevada, and conditioned upon the faithful performance of all the requirements of this chapter and upon the punctual payment of all excise taxes, penalties and interest due the State of Nevada. The total amount of the bond must not be less than $2,500.

3. No recovery on any bond, execution of any new bond or suspension or revocation of any license as a special fuel supplier, special fuel dealer **,** ~~[or]~~

special fuel user ***or special fuel manufacturer*** affects the validity of any bond.

4. In lieu of a bond or bonds, an applicant for or holder of a license as a special fuel supplier or special fuel dealer, or a person required to provide a bond pursuant to subsection 2, may deposit with the State Treasurer, under such terms as the Department may prescribe, an equivalent 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 Department.

5. If the holder of a license as a special fuel supplier or special fuel dealer is required to provide a bond of more than $5,000, the Department may reduce the requirements for the bond to not less than $5,000 upon the faithful performance of the special fuel supplier or special fuel dealer of all the requirements of this chapter and the punctual payment of all taxes due the State of Nevada for the 3 preceding calendar years.

6. The Department shall immediately reinstate the original requirements for a bond for a holder of a license as a special fuel supplier or special fuel dealer upon his:

(a) Lack of faithful performance of the requirements of this chapter; or

(b) Failure to pay punctually all taxes, fees, penalties and interest due the State of Nevada.

7. For the purposes of this section, a person is "habitually delinquent" if, within any 12-month period, the person commits each of the following acts or commits either of the following acts more than once:

(a) Fails timely to file a monthly or quarterly special fuel tax return, unless the Department determines that:

(1) The failure to file was caused by circumstances beyond the control of the person and occurred notwithstanding the exercise of ordinary care; and

(2) The person has paid any penalty and interest imposed by the Department because of the failure to file.

(b) Fails timely to submit to the Department any tax collected by the person pursuant to this chapter.

Sec. 16. NRS 366.240 is hereby amended to read as follows:

366.240 1. Except as otherwise provided in subsection 2, the Department shall:

(a) Upon receipt of the application and bond in proper form, issue to the applicant a special fuel supplier's or special fuel dealer's license.

(b) Upon receipt of the application in proper form, issue to the applicant a special fuel exporter's, special fuel transporter's ***,*** ~~[or]~~ special fuel user's ***or special fuel manufacturer's*** license.

2. The Department may refuse to issue a license pursuant to this section to any person:

(a) Who formerly held a license issued pursuant to this chapter or a similar license of any other state, the District of Columbia, the United States, a territory or possession of the United States or any foreign country which, before the time of filing the application, has been revoked for cause;

(b) Who applies as a subterfuge for the real party in interest whose license, before the time of filing the application, has been revoked for cause;

(c) Who, if he is a special fuel supplier or special fuel dealer, neglects or refuses to furnish a bond as required by this chapter;

(d) Who is in default in the payment of a tax on special fuel in this State, any other state, the District of Columbia, the United States, a territory or possession of the United States or any foreign country;

(e) Who has failed to comply with any provision of this chapter; or

(f) Upon other sufficient cause being shown.

Sec. 17. NRS 366.250 is hereby amended to read as follows:

366.250 Any applicant whose application for a special fuel supplier's license, special fuel dealer's license, special fuel exporter's license, special fuel transporter's license **,** ~~[or]~~ special fuel user's license ***or special fuel manufacturer's license*** has been denied may petition the Department for a hearing. The Department shall:

1. Grant the applicant a hearing.

2. Provide to the applicant, not less than 10 days before the hearing, written notice of the time and place of the hearing.

Sec. 18. NRS 366.270 is hereby amended to read as follows:

366.270 If any person ceases to be a special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter **,** ~~[or]~~ special fuel user ***or special fuel manufacturer*** within this State by reason of the discontinuance, sale or transfer of his business, he shall:

1. Notify the Department in writing at the time the discontinuance, sale or transfer takes effect. The notice must give the date of the discontinuance, sale or transfer, and the name and address of any purchaser or transferee.

2. Surrender to the Department the license issued to him by the Department.

3. If he is:

(a) A special fuel user registered under the Interstate Highway User Fee Apportionment Act, ~~*[or a special fuel manufacturer,]*~~ file the tax return required pursuant to NRS 366.380 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(b) A special fuel supplier, file the tax return required pursuant to NRS 366.383 and pay all taxes, interest and penalties required pursuant to this chapter and chapter 360A of NRS on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(c) A special fuel dealer ***~~[,]~~ or special fuel manufacturer,*** file the tax return required pursuant to NRS 366.386 and pay all taxes, interest and

penalties required pursuant to this chapter and chapter 360A of NRS, except that both the filing and payment are due on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(d) A special fuel exporter, file the report required pursuant to NRS 366.387 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

(e) A special fuel transporter, file the report required pursuant to NRS 366.695 on or before the last day of the month following the month of the discontinuance, sale or transfer of the business.

Sec. 18.5. **NRS 366.370 is hereby amended to read as follows:**

366.370 1. Except as otherwise provided in this chapter, the excise tax imposed by this chapter with respect to the use or sale of special fuel during any calendar quarter is due on or before the last day of the first month following the quarterly period to which it relates.

2. If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.

3. Payment shall be deemed received on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any other country upon an envelope containing payment properly addressed to the Department.

4. A special fuel supplier shall pay the tax imposed by this chapter at the time he files his tax return pursuant to NRS 366.383.

5. A special fuel dealer ***or special fuel manufacturer*** shall pay the tax imposed by this chapter at the time he files his tax return pursuant to NRS 366.386.

Sec. 19. ~~[NRS 366.380 is hereby amended to read as follows:~~

~~366.380 1. On or before the last day of January, April, July and October in each year, each special fuel user registered under the Interstate Highway User Fee Apportionment Act ***and each special fuel manufacturer*** shall file with the Department a quarterly tax return for the preceding quarter, regardless of the amount of excise tax due, on a form prescribed by the Department. The special fuel user ***or special fuel manufacturer*** shall include with the tax return payment of any excise tax due. If the due date falls on a Saturday, Sunday or legal holiday, the next business day is the final due date.~~

~~2. The return must show such information as the Department may reasonably require for the proper administration and enforcement of this chapter.]~~ **(Deleted by amendment.)**

Sec. 19.5. **NRS 366.386 is hereby amended to read as follows:**

366.386 1. On or before the last day of the month following each reporting period, a special fuel dealer ***or special fuel manufacturer*** shall file with the Department a tax return for the preceding reporting period, regardless of the amount of tax collected, on a form prescribed by the Department.

2. The tax return must:

(a) Include information required by the Department for the administration and enforcement of this chapter; and

(b) Be accompanied by a remittance, payable to the Department, for the amount of the tax due.

3. Except as otherwise provided in this subsection, the reporting period for a special fuel dealer ***or special fuel manufacturer*** is a calendar month. Upon application by a special fuel dealer ~~[,]~~ ***or special fuel manufacturer,*** the Department may assign to the special fuel dealer ***or special fuel manufacturer*** for a specific calendar year:

(a) A reporting period consisting of that entire calendar year if the Department estimates, based upon the tax returns filed by the special fuel dealer ***or special fuel manufacturer*** for the preceding calendar year, that the special fuel dealer ***or special fuel manufacturer*** will sell not more than 200 gallons of special fuel in this State each calendar month of that reporting period.

(b) Two reporting periods consisting of 6 consecutive calendar months, commencing on the first day of January and July, respectively, if the Department estimates, based upon the tax returns filed by the special fuel dealer ***or special fuel manufacturer*** for the preceding calendar year, that the special fuel dealer ***or special fuel manufacturer*** will sell more than 200 gallons but not more than 500 gallons of special fuel in this State each calendar month during those reporting periods.

(c) Four reporting periods consisting of 3 consecutive months, commencing on the first day of January, April, July and October, respectively, if the Department estimates, based upon the tax returns filed by the special fuel dealer ***or special fuel manufacturer*** for the preceding calendar year, that the special fuel dealer ***or special fuel manufacturer*** will sell more than 500 gallons but less than 5,000 gallons of special fuel in this State each calendar month during those reporting periods.

Sec. 20. ~~[NRS 366.395 is hereby amended to read as follows:~~

~~366.395 1. Any special fuel user *or special fuel manufacturer* who fails to file a tax return or pay any excise tax by the date due shall pay, in addition to any tax that may be due, a delinquent filing fee of $50 and a penalty of 10 percent of the amount of tax owed, plus interest on the amount of any tax that may be due at the rate of 1 percent per month or fraction thereof, from the date the tax was due until the date of payment.~~

~~2. A tax return, statement or payment is considered delinquent if it is not received by the Department on or before the date the tax return, statement or payment is due, as prescribed by the provisions of this chapter.~~

~~3. A tax return, statement or payment shall be deemed received on the date shown by the cancellation mark stamped by the United States Postal Service or the postal service of any country upon an envelope containing the tax return, statement or payment.~~~~]~~ **(Deleted by amendment.)**

Sec. 21. NRS 366.540 is hereby amended to read as follows:

366.540 1. The tax provided for by this chapter must be paid by special fuel suppliers, special fuel dealers **,** ~~[and]~~ special fuel users ~~[.]~~ ***and special fuel manufacturers.*** A special fuel supplier or special fuel dealer shall pay to the Department the excise tax he collects from purchasers of special fuel with the return filed pursuant to NRS 366.383 or 366.386, respectively. The tax paid by a special fuel user must be computed by multiplying the tax rate per gallon provided in this chapter by the amount that the number of gallons of special fuel consumed by the special fuel user in the propulsion of motor vehicles on the highways of this State exceeds the number of gallons of special fuel purchases by him. ***The tax paid by a special fuel manufacturer must be computed by multiplying the tax rate per gallon provided in this chapter by the number of gallons of special fuel that the special fuel manufacturer places into or sells for placement into the supply tank of a motor vehicle in this State.***

2. If the Department determines that a special fuel supplier or special fuel dealer, or any unlicensed person who collects an excise tax, has failed to submit a tax return when due pursuant to this chapter or failed to pay the tax when due pursuant to this chapter, the Department may order the special fuel supplier, special fuel dealer or unlicensed person to hold the amount of all taxes collected pursuant to this chapter in a separate account in trust for the State. The special fuel supplier, special fuel dealer or unlicensed person shall comply with the order immediately upon receiving notification of the order from the Department.

3. A retailer who receives or sells special fuel for which the taxes imposed pursuant to this chapter have not been paid is liable for the taxes and any applicable penalty or interest if the retailer knew or should have known that the applicable taxes on the special fuel had not been paid.

Sec. 22. NRS 366.685 is hereby amended to read as follows:

366.685 1. Every special fuel supplier, special fuel dealer, special fuel exporter, special fuel transporter, special fuel user ***, special fuel manufacturer*** and retailer, and every other person transporting or storing special fuel in this State shall keep such records, receipts, invoices and other pertinent papers with respect thereto as the Department requires.

2. The records, receipts, invoices and other pertinent papers described in subsection 1 must be preserved for 4 years after the date on which the record, receipt, invoice or other pertinent paper was created or generated.

3. The records, receipts, invoices and other pertinent papers must be available at all times during business hours to the Department or its authorized agents.

4. In addition to any other penalty that may be imposed, any violation of the provisions of this section constitutes grounds for the Department to deny any future application for a license pursuant to this chapter that is submitted by a person who is determined to be responsible for the violation.

Sec. 22.5. **NRS 366.692 is hereby amended to read as follows:**

366.692 1. Each special fuel supplier ***or special fuel manufacturer*** shall prepare and provide a record of shipment to each person who purchases more than 25 gallons of special fuel and transports the special fuel from the place of purchase. The record of shipment must include the:

(a) Place where the special fuel was purchased;

(b) Place to which the purchaser declares the special fuel will be transported;

(c) Number of gallons of special fuel transported;

(d) Color and concentration of the dye added to the special fuel, if any; and

(e) Name and address of the purchaser of the special fuel.

2. Each person who transports special fuel in this State shall:

(a) Keep the record of shipment required by subsection 1 in the vehicle in which the special fuel is transported until the special fuel is delivered to the purchaser; and

(b) Upon request from a peace officer, allow the peace officer to inspect the record of shipment.

Sec. 23. NRS 366.720 is hereby amended to read as follows:

366.720 1. Any person who:

(a) Fails or refuses to pay the tax imposed by this chapter;

(b) Engages in business in this State as a ***special fuel manufacturer,*** special fuel user, special fuel exporter, special fuel dealer or special fuel supplier, or acts in this State as a special fuel transporter, without being the holder of a license to engage in that business or to act in that capacity;

(c) Fails to make any of the reports required by this chapter;

(d) Makes any false statement in any application, report or statement required by this chapter;

(e) Refuses to permit the Department or any authorized agent to examine records as provided by this chapter;

(f) Fails to keep proper records of quantities of special fuel received, produced, refined, manufactured, compounded, used or delivered in this State as required by this chapter;

(g) Makes any false statement in connection with an application for the refund of any money or taxes provided in this chapter;

(h) Violates the provisions of NRS 366.265;

(i) Fails or refuses to stop his motor vehicle for an inspection to determine if all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid; or

(j) Refuses to allow the Department or an authorized agent to inspect a motor vehicle to determine whether all excise taxes due pursuant to the provisions of this chapter are being properly reported and paid,

➥ is guilty of a misdemeanor.

2. Each day or part thereof during which any person engages in business as a ***special fuel manufacturer,*** special fuel dealer, special fuel supplier or special fuel exporter or acts as a special fuel transporter without being the

holder of a license authorizing him to engage in that business or to act in that capacity constitutes a separate offense within the meaning of this section.

Sec. 23.3. **NRS 366.735 is hereby amended to read as follows:**

366.735 1. The Department may take disciplinary action in accordance with subsection 2 against any person who ~~[:]~~ ***, below the terminal rack:***

(a) Sells or stores ***for personal consumption*** any dyed special fuel for a use which the person selling or storing such fuel knows, or has reason to know, is a taxable use of the fuel ~~[;]~~ ***and does not report and pay the applicable tax to the Department;***

(b) Willfully ~~[alters or attempts to alter the strength of composition]~~ ***decreases or attempts to decrease the concentration*** of any dye in any special fuel intended to be used for a taxable purpose ~~[; or]~~ ***and does not report and pay the applicable tax to the Department;***

(c) Uses dyed special fuel for a taxable purpose ~~[.]~~ ***and does not report and pay the applicable tax to the Department;***

(d) Willfully increases or attempts to increase the volume of any special fuel intended to be used for a taxable purpose by adding to the fuel any quantity of special fuel for which the tax imposed pursuant to this chapter has not been paid or any quantity of other product for which any tax imposed pursuant to the laws of this State has not been paid; or

(e) Willfully manufactures, sells, distributes for sale or attempts to manufacture, sell or distribute for sale any special fuel intended to be used for a taxable purpose and for which the tax imposed pursuant to this chapter has not been paid.

2. For any violation described in subsection 1, the Department may:

(a) If the violation is a first offense, impose an administrative fine of not more than $2,500 and suspend any license issued to that person pursuant to this chapter for not more than 30 days;

(b) If the violation is a second offense within a period of 4 years, impose an administrative fine of not more than $5,000 and suspend any license issued to that person pursuant to this chapter for not more than 60 days; and

(c) If the violation is a third or subsequent offense within a period of 4 years, impose an administrative fine of not more than $10,000 and revoke any license issued to that person pursuant to this chapter.

Sec. 23.7. **NRS 366.740 is hereby amended to read as follows:**

366.740 1. Except as otherwise provided in NRS 366.733 and 366.735 ~~[,]~~ ***and section 8.5 of this act,*** the Department may impose an administrative fine, not to exceed $2,500, for a violation of any provision of this chapter, or any regulation or order adopted or issued pursuant thereto.

2. The Department shall afford to any person fined pursuant to this section or NRS 366.733 or 366.735 ***or section 8.5 of this act*** an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

3. All administrative fines collected by the Department pursuant to subsection 1 or NRS 366.733 or 366.735 ***or section 8.5 of this act*** must be deposited with the State Treasurer to the credit of the State Highway Fund.

4. In addition to any other remedy provided by this chapter, the Department may compel compliance with any provision of this chapter and any regulation or order adopted or issued pursuant thereto by injunction or other appropriate remedy. The Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Sec. 24. NRS 365.072 is hereby repealed.

Sec. 25. This act becomes effective upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act and on October 1, 2009, for all other purposes.

TEXT OF REPEALED SECTION

365.072 "Petroleum-ethanol mixture" defined. "Petroleum-ethanol mixture" means a fuel containing a minimum of 10 percent by volume of ethyl alcohol derived from agricultural products.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 262.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 400.

AN ACT relating to marriage; **authorizing certain persons to issue marriage licenses in certain counties;** allowing certain married persons to remarry each other; ~~[revising the age for which consent of a parent, guardian or court is required to be married;]~~ revising provisions governing the documentation a person is required to present to obtain a marriage license; ~~[providing for the collection of additional fees relating to a marriage license;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that before persons may be joined in marriage, a marriage license must be obtained for that purpose from the county clerk. (NRS 122.040) Sections 1-1.7 of this bill provide that in counties whose population is less than 400,000 (currently all counties other than Clark County), a person who meets certain qualifications may be certified by the county clerk as a marriage licensing agent and may issue marriage licenses at a commercial wedding chapel.

Existing law provides that a person cannot marry another person if he or she has a wife or husband living. (NRS 122.020) **Section 1.9** of this bill provides that if a male and female are the husband and wife of each other, they may be rejoined in marriage.

~~[Existing law provides that if a person is at least 16 years of age but less than 18 years of age, that person cannot marry without the consent of a parent or legal guardian. If a person is less than 16 years of age, the person~~

~~must also have the authorization of a district court. (NRS 122.020, 122.025) Sections 1 and 2 of this bill provide that a person at least 15 years of age but less than 18 years of age may marry with the consent of a parent or guardian, and that additional district court authorization is necessary for a person less than 15 years of age.]~~

Section 3 of this bill provides that in the application for a marriage license: (1) proof of an applicant's name and age ~~[is discretionary; (2)]~~ **may be evidenced by a birth certificate and either** any secondary document ~~[showing]~~ **that contains** the applicant's name and ~~[age]~~ **a photograph of the applicant, or any document for which identification must be verified as a condition for receipt of the document; [**~~with a birth certificate will be accepted; (3)]~~ **(2)** if the applicant appears over ~~[18]~~ **25** years of age, documented proof of age is not required; ~~[(4)]~~ **(3)** an applicant cannot be denied a marriage license for ~~[failure to provide his]~~ **stating that he does not have a** social security number ~~[if he does not know it;]~~ **or stating that an answer to a question on the application is unknown; and [**~~(5)]~~ **(4)** a parent giving consent to a minor to marry can prove his relationship with the minor using the minor's birth certificate **. [**~~; and (6) if an applicant meets the requirements of the statute, the county clerk must issue him a marriage license.]~~ (NRS 122.040)

~~[Section 4 of this bill increases the additional fee collected by the commissioner of civil marriages or his deputy when solemnizing a marriage from $5 to $20 for the Account for Aid for Victims of Domestic Violence in the State General Fund and adds a $10 fee to be placed in the State General Fund. (NRS 122.181)~~

~~Section 5 of this bill provides that the county clerk shall collect, if authorized by the board of county commissioners, an additional fee of $5 for the Account for Aid for Victims of Domestic Violence in the State General Fund when certifying a copy of a certificate of marriage or when certifying an abstract of a certificate of marriage. (NRS 246.180)]~~

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

Section 1. **Chapter 122 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1 to 1.7, inclusive, of this act.**

Sec. 1.1. As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 122.002 and sections 1.2 and 1.3 of this act have the meanings ascribed to them in those sections.

Sec. 1.2. "Commercial wedding chapel" means a permanently affixed structure which operates a business principally for the performance of weddings and which is licensed for that purpose.

Sec. 1.3. "Marriage licensing agent" means a person certified pursuant to section 1.4 of this act to issue marriage licenses at a commercial wedding chapel.

Sec. 1.4. ***1. In a county whose population is less than 400,000, the county clerk may certify a person as a marriage licensing agent. A marriage licensing agent may issue marriage licenses at a commercial wedding chapel pursuant to this chapter and regulations adopted by the county clerk.***

2. A person shall not act as a marriage licensing agent unless the person is issued a certificate as a marriage licensing agent by the county clerk pursuant to this section.

3. The county clerk:

(a) Shall establish a course of training for applicants for certification as marriage licensing agents.

(b) Shall adopt regulations establishing standards of practice for marriage licensing agents.

(c) May investigate any marriage licensing agent to ensure that the marriage licensing agent is complying with the provisions of this chapter and the standards of practice adopted by the county clerk.

4. In addition to any other remedy or penalty, if the county clerk or a hearing panel appointed by the county clerk, after notice and hearing, finds that a marriage licensing agent has violated any provision of this chapter or the standards of practice adopted by the county clerk, the county clerk or the hearing panel may take appropriate disciplinary action against the marriage licensing agent.

5. In addition to any other remedy or penalty, the county clerk may:

(a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the county clerk; or

(b) Suspend or revoke the certificate of a person who has failed to pay money which the person owes to the county clerk.

Sec. 1.5. ***1. An applicant for certification as a marriage licensing agent must:***

(a) Be at least 21 years of age.

(b) Have at least 3 years of verifiable employment experience working for a commercial wedding chapel.

(c) Not have been convicted of a felony.

(d) Submit to the county clerk completed fingerprint cards and a form authorizing an investigation of the applicant's background and the submission of a complete set of his fingerprints to the Central Repository for Nevada Records of Criminal History for its report and for submission to the Federal Bureau of Investigation for its report. The fingerprint cards and authorization form submitted must be those which are provided to the applicant by the county clerk. The applicant's fingerprints must be taken by an agency of law enforcement.

(e) Possess computer and printer equipment compatible with software for the issuance of a marriage license.

(f) Submit to the county clerk the fee for the training course established by the county clerk pursuant to section 1.4 of this act and complete the

training course. The county clerk shall establish the fee for the training program, which must not exceed $100.

(g) Pay to the county clerk an additional initial fee to be established by the county clerk for software installation and technical support at the business location of the marriage licensing agent.

2. A marriage licensing agent shall:

(a) File the original application for a marriage license with the county clerk on the first available business day after completion of the application;

(b) Collect from an applicant for a marriage license all fees required by law to be collected;

(c) Remit all fees collected to the county clerk, in the manner required by the standards of practice adopted by the county clerk; and

(d) Comply with all provisions of this chapter and the standards of practice adopted by the county clerk.

Sec. 1.6. 1. An applicant for certification as a marriage licensing agent shall submit to the county clerk 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 county clerk shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance of the certificate; or

(b) A separate form prescribed by the county clerk.

3. A certificate may not be issued by the county clerk if the applicant:

(a) Fails to complete or 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 county clerk 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. 1.7. 1. If the county clerk 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 has been issued a certificate as a marriage licensing agent, the county clerk shall deem the certificate to be suspended

at the end of the 30th day after the date on which the court order was issued unless the county clerk receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The county clerk shall reinstate a certificate that has been suspended by a district court pursuant to NRS 425.540 if the county clerk receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person whose certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 1.8. **NRS 122.002 is hereby amended to read as follows:**

122.002 ~~[As used in this chapter, "commissioner"]~~ ***"Commissioner*** township" means a township whose population is 15,500 or more, as most recently certified by the Governor pursuant to NRS 360.285, and which is located in a county whose population is 100,000 or more.

Sec. 1.9. NRS 122.020 is hereby amended to read as follows:

122.020 1. ~~[A]~~ ***Except as otherwise provided in this section, a*** male and a female person, at least 18 years of age, not nearer of kin than second cousins or cousins of the half blood, and not having a husband or wife living, may be joined in marriage.

2. ***A male and a female person who are the husband and wife of each other may be rejoined in marriage.***

3. A person at least 16 ~~*[15]*~~ years of age but less than 18 years of age may marry only if he has the consent of:

(a) Either parent; or

(b) His legal guardian.

Sec. 2. ~~[NRS 122.025 is hereby amended to read as follows:~~

~~122.025 1. A person less than [16] *15* years of age may marry only if he has the consent of:~~

~~(a) Either parent; or~~

~~(b) Such person's legal guardian,~~

~~and such person also obtains authorization from a district court as provided in subsection 2.~~

~~2. In extraordinary circumstances, a district court may authorize the marriage of a person less than [16] *15* years of age if the court finds that:~~

~~(a) The marriage will serve the best interests of such person; and~~

~~(b) Such person has the consent required by paragraph (a) or (b) of subsection 1.~~

~~Pregnancy alone does not establish that the best interests of such person will be served by marriage, nor may pregnancy be required by a court as a condition necessary for its authorization for the marriage of such person.]~~ **(Deleted by amendment.)**

Sec. 3. NRS 122.040 is hereby amended to read as follows:

122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State ~~[.]~~ ***or a marriage licensing agent.*** Except as otherwise provided in this subsection ~~[.]~~ ***and section 1.4 of this act,*** the license must be issued at the county seat of that county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. ~~[Before]~~ ***Except as otherwise provided in this section, before*** issuing a marriage license, the county clerk ***or marriage licensing agent*** shall ~~*[may]*~~ require each applicant to provide proof of the applicant's name and age. The county clerk ***or marriage licensing agent*** may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and ~~[a]~~ ~~*[any]*~~ **:**

(1) Any secondary ~~[form of identification]~~ ***document*** that contains the name ***and a photograph*** of the applicant ~~[.]~~ ***; or***

(2) Any document for which identification must be verified as a condition to receipt of the document.

➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that ~~[the county clerk determines]~~ provides ~~[~~proof of~~]~~ the applicant's name and age. ***If the applicant clearly appears over the age of ~~[18]~~ 25 years, no documentation of proof of age is required.***

3. Except as otherwise provided in subsection 4, the county clerk ***or marriage licensing agent*** issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk ***or marriage licensing agent*** shall ~~[may]~~ ***, except as otherwise provided in this subsection,*** require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk ***or marriage licensing agent*** shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. ***The county clerk or marriage licensing agent shall not deny a license to an applicant ~~[for stating that an answer is unknown.]~~ who states that he does not have a social security number or who states that any other answer is unknown.***

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk ~~[,]~~ ***or marriage licensing agent,*** the county clerk ***or marriage licensing agent*** may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk ~~[,]~~ ***or marriage licensing agent,*** or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk ~~[,]~~ ***or marriage licensing agent.*** If the district court waives the requirements of subsection 3, the district court shall notify the county clerk ***or marriage licensing agent*** in writing. If the county clerk ***, the marriage licensing agent*** or the district court waives the requirements of subsection 3, the county clerk ***or marriage licensing agent*** shall require the applicant who is able to appear before the county clerk ***or marriage licensing agent*** to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk ***or marriage licensing agent*** shall not require any evidence to verify a social security number.

➥ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. ***The county clerk or marriage licensing agent shall not deny a license to an applicant ~~[for stating that an answer is unknown.]~~ who states***

that he does not have a social security number or who states that any other answer is unknown.

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk ***or marriage licensing agent*** shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk ***or marriage licensing agent*** and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. ***If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk or marriage licensing agent shall accept, as proof that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2 .*** ~~*[or on a notarized statement of consent by the parent.]*~~

7. If the authorization of a district court is required, the county clerk ***or marriage licensing agent*** shall issue the license if that authorization is given to him in writing.

~~[~~7.~~]~~ ~~*[8. The county clerk shall issue a marriage license to each applicant who fulfills the requirements set forth in this section.*~~

~~*9.]*~~ ***8.*** All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

~~[~~8.~~]~~ ~~*[10.]*~~ ***9.*** A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 3.5. **NRS 122.040 is hereby amended to read as follows:**

122.040 1. Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the State **.** ~~[or a marriage licensing agent.]~~ Except as otherwise provided in this subsection**,** ~~[and section 1.4 of this act,]~~ the license must be issued at the county seat of that county. The board of county commissioners:

(a) In a county whose population is 400,000 or more:

(1) Shall designate one branch office of the county clerk at which marriage licenses may be issued and shall establish and maintain the designated branch office in an incorporated city whose population is 150,000 or more but less than 300,000; and

(2) May, in addition to the branch office described in subparagraph (1), at the request of the county clerk, designate not more than four branch offices

of the county clerk at which marriage licenses may be issued, if the designated branch offices are located outside of the county seat.

(b) In a county whose population is less than 400,000 may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat.

2. Except as otherwise provided in this section, before issuing a marriage license, the county clerk ~~[or marriage licensing agent]~~ shall require each applicant to provide proof of the applicant's name and age. The county clerk ~~[or marriage licensing agent]~~ may accept as proof of the applicant's name and age an original or certified copy of any of the following:

(a) A driver's license, instruction permit or identification card issued by this State or another state, the District of Columbia or any territory of the United States.

(b) A passport.

(c) A birth certificate and:

(1) Any secondary document that contains the name and a photograph of the applicant; or

(2) Any document for which identification must be verified as a condition to receipt of the document.

➥ If the birth certificate is written in a language other than English, the county clerk may request that the birth certificate be translated into English and notarized.

(d) A military identification card or military dependent identification card issued by any branch of the Armed Forces of the United States.

(e) A Certificate of Citizenship, Certificate of Naturalization, Permanent Resident Card or Temporary Resident Card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security.

(f) Any other document that provides the applicant's name and age. If the applicant clearly appears over the age of 25 years, no documentation of proof of age is required.

3. Except as otherwise provided in subsection 4, the county clerk ~~[or marriage licensing agent]~~ issuing the license shall require each applicant to answer under oath each of the questions contained in the form of license. The county clerk ~~[or marriage licensing agent]~~ shall, except as otherwise provided in this subsection, require each applicant to include the applicant's social security number on the affidavit of application for the marriage license. If a person does not have a social security number, the person must state that fact. The county clerk ~~[or marriage licensing agent]~~ shall not require any evidence to verify a social security number. If any of the information required is unknown to the person, the person must state that the answer is unknown. The county clerk ~~[or marriage licensing agent]~~ shall not deny a license to an

applicant who states that he does not have a social security number or who states that any other answer is unknown.

4. Upon finding that extraordinary circumstances exist which result in only one applicant being able to appear before the county clerk, ~~[or marriage licensing agent,]~~ the county clerk ~~[or marriage licensing agent]~~ may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk ~~[or marriage licensing agent,]~~ or may refer the applicant to the district court. If the applicant is referred to the district court, the district court may waive the requirements of subsection 3 with respect to the person who is unable to appear before the county clerk . ~~[or marriage licensing agent.]~~ If the district court waives the requirements of subsection 3, the district court shall notify the county clerk ~~[or marriage licensing agent]~~ in writing. If the county clerk ~~[, the marriage licensing agent]~~ or the district court waives the requirements of subsection 3, the county clerk ~~[or marriage licensing agent]~~ shall require the applicant who is able to appear before the county clerk ~~[or marriage licensing agent]~~ to:

(a) Answer under oath each of the questions contained in the form of license. The applicant shall answer any questions with reference to the other person named in the license.

(b) Include the applicant's social security number and the social security number of the other person named in the license on the affidavit of application for the marriage license. If either person does not have a social security number, the person responding to the question must state that fact. The county clerk ~~[or marriage licensing agent]~~ shall not require any evidence to verify a social security number.

➥ If any of the information required on the application is unknown to the person responding to the question, the person must state that the answer is unknown. The county clerk ~~[or marriage licensing agent]~~ shall not deny a license to an applicant who states that he does not have a social security number or who states that any other answer is unknown.

5. If any of the persons intending to marry are under age and have not been previously married, and if the authorization of a district court is not required, the clerk ~~[or marriage licensing agent]~~ shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk ~~[or marriage licensing agent]~~ and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

6. If a parent giving consent to the marriage of a minor pursuant to subsection 5 has a last name different from that of the minor seeking to be married, the county clerk ~~[or marriage licensing agent]~~ shall accept, as proof

that the parent is the legal parent of the minor, a certified copy of the birth certificate of the minor which shows the parent's first and middle name and which matches the first and middle name of the parent on any document listed in subsection 2.

7. If the authorization of a district court is required, the county clerk ~~[or marriage licensing agent]~~ shall issue the license if that authorization is given to him in writing.

8. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010.

9. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 4. ~~[NRS 122.181 is hereby amended to read as follows:~~

~~122.181 1. The commissioner of civil marriages or his deputy commissioner of civil marriages is entitled to receive as his fee for solemnizing a marriage $45. The fee must be deposited in the county general fund.~~

~~2. The commissioner of civil marriages or his deputy commissioner of civil marriages shall also at the time of solemnizing a marriage collect the additional sum of [$5] *$20* for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be credited to that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the clerk to the State Controller for credit to that Account.~~

~~*3. The commissioner of civil marriages or his deputy commissioner of civil marriages shall also at the time of solemnizing a marriage collect the additional sum of $10. The fees collected must be paid over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be placed to the credit of the State General Fund. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the county clerk to the State Controller for credit to the State General Fund.]~~* **(Deleted by amendment.)**

Sec. 5. ~~[NRS 246.180 is hereby amended to read as follows:~~

~~246.180 1. If the board of county commissioners has adopted an ordinance pursuant to NRS 246.100, the county clerk shall charge and collect the following fees:~~

~~(a) For filing any certificate of marriage, $10.~~

~~(b) For copying any certificate of marriage, $1 per page.~~

~~(c) For a certified copy of a certificate of marriage, $10.~~

~~(d) For a certified abstract of a certificate of marriage, $10.~~

~~*(e) For a certified copy of a certificate of marriage or for a certified abstract of a certificate of marriage, the additional sum of $5 for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county*~~

~~***treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be credited to that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the clerk to the State Controller for credit to that Account.***~~

~~2. In addition to the fees described in subsection 1, a county clerk may charge and collect an additional fee not to exceed $3 for filing a certificate of marriage, if the board of county commissioners has adopted an ordinance authorizing the additional fee. The county clerk shall pay to the county treasurer the amount of fees collected by him pursuant to this subsection for credit to the account established pursuant to NRS 246.190.~~

~~3. A county clerk shall charge and collect the fees specified in this section for copying a document specified in this section at the request of the State of Nevada or any city or town within the county. For copying, and for his certificate and seal upon the copy, the county clerk shall charge the regular fee.~~

~~4. Except as otherwise provided in an ordinance adopted pursuant to NRS 244.207, county clerks shall, on or before the fifth working day of each month, account for and pay to the county treasurer all fees related to filing certificates of marriage collected during the preceding month.~~

~~5. For purposes of this section, "State of Nevada," "county," "city" and "town" include any department or agency thereof and any officer thereof in his official capacity.~~~~]~~ **(Deleted by amendment.)**

Sec. 5.1. **NRS 122.045 is hereby amended to read as follows:**

122.045 1. Except as otherwise provided in subsection 2, if any information in a marriage license is incorrect, the county clerk may charge and collect from a person a fee of not more than $25 for the preparation of an affidavit of correction.

2. The county clerk may not charge and collect from a person any fee for the preparation of an affidavit of correction pursuant to subsection 1 if the only errors to be corrected in the marriage license are clerical errors that were made by the county clerk ~~[.]~~ ***or marriage licensing agent.***

3. All fees collected by the county clerk pursuant to this section must be deposited in the county general fund.

Sec. 5.2. **NRS 122.050 is hereby amended to read as follows:**

122.050 The marriage license must contain the name of each applicant as shown in the documents presented pursuant to subsection 2 of NRS 122.040 and must be substantially in the following form:

MARRIAGE LICENSE

(EXPIRES 1 YEAR AFTER ISSUANCE)

State of Nevada }

} ss.

County of .....}

These presents are to authorize any minister who has obtained a certificate of permission, any Supreme Court justice or district judge within this State, or justice of the peace within a township wherein he is permitted to solemnize marriages or if authorized pursuant to subsection 3 of NRS 122.080, or a municipal judge if authorized pursuant to subsection 4 of NRS 122.080 or any commissioner of civil marriages or his deputy within a commissioner township wherein they are permitted to solemnize marriages, to join in marriage .... of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Wife deceased .... Divorced .... Annulled .... When .... Where .... And .... of (City, town or location) ...., State of .... State of birth (If not in U.S.A., name of country) ....; Date of birth .... Father's name .... Father's state of birth (If not in U.S.A., name of country) .... Mother's maiden name .... Mother's state of birth (If not in U.S.A., name of country) .... Number of this marriage (1st, 2nd, etc.) ... Husband deceased .... Divorced .... Annulled .... When .... Where ....; and to certify the marriage according to law.

Witness my hand and the seal of the county ***or signature of the marriage licensing agent***, this ... day of the month of ……. of the year .....

.....

(Seal) Clerk ***or (Signature) Marriage Licensing Agent***

.....

Deputy clerk

Sec. 5.3. **NRS 122.055 is hereby amended to read as follows:**

122.055 1. The county clerk ***or marriage licensing agent*** may place the affidavit of application for a marriage license, the certificate of marriage and the marriage license on a single form.

2. The county clerk ***or marriage licensing agent*** shall have printed or stamped on the reverse of the form instructions for obtaining a certified copy or certified abstract of the certificate of marriage.

Sec. 5.4. **NRS 122.062 is hereby amended to read as follows:**

122.062 1. Any licensed or ordained minister in good standing within his denomination, whose denomination, governing body and church, or any of them, are incorporated or organized or established in this state, may join together as husband and wife persons who present a marriage license obtained from any county clerk ***or marriage licensing agent*** of the State, if the minister first obtains a certificate of permission to perform marriages as provided in this section and NRS 122.064 to 122.073, inclusive. The fact that a minister is retired does not disqualify him from obtaining a certificate of

permission to perform marriages if, before his retirement, he had active charge of a congregation within this state for a period of at least 3 years.

2. A temporary replacement for a licensed or ordained minister certified pursuant to this section and NRS 122.064 to 122.073, inclusive, may solemnize marriages pursuant to subsection 1 during such time as he may be authorized to do so by the county clerk in the county in which he is a temporary replacement, for a period not to exceed 90 days. The minister whom he temporarily replaces shall provide him with a written authorization which states the period during which it is effective.

3. Any chaplain who is assigned to duty in this state by the Armed Forces of the United States may solemnize marriages if he obtains a certificate of permission to perform marriages from the county clerk of the county in which his duty station is located. The county clerk shall issue such a certificate to a chaplain upon proof by him of his military status as a chaplain and of his assignment.

4. A county clerk may authorize a licensed or ordained minister whose congregation is in another state to perform marriages in the county if the county clerk satisfies himself that the minister is in good standing with his denomination or church. The authorization must be in writing and need not be filed with any other public officer. A separate authorization is required for each marriage performed. Such a minister may perform not more than five marriages in this state in any calendar year.

Sec. 5.5. **NRS 122.210 is hereby amended to read as follows:**

122.210 If any county clerk ***or marriage licensing agent*** shall issue or sign any marriage license in any manner other than is authorized by this chapter, he shall forfeit and pay a sum not exceeding $1,000 to and for the use of the person aggrieved.

Sec. 5.6. **NRS 122.220 is hereby amended to read as follows:**

122.220 1. It is unlawful for any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister of any religious society or congregation, commissioner of civil marriages or deputy commissioner of civil marriages to join together as husband and wife persons allowed by law to be joined in marriage, until the persons proposing such marriage exhibit to him a license from the county clerk ***or marriage licensing agent*** as provided by law.

2. Any Supreme Court justice, judge of a district court, justice of the peace, municipal judge, minister, commissioner of civil marriages or deputy commissioner of civil marriages who violates the provisions of subsection 1 is guilty of a misdemeanor.

Sec. 6. **1.** This **section and sections 1 to 3, inclusive, and 4 to 5.6, inclusive, of this** act ~~[becomes]~~ **become** effective on July 1, 2009.

2. Section 3.5 of this act becomes effective on July 1, 2011.

3. Sections 1 to 1.9, inclusive, 3 and 5.1 to 5.6, inclusive, of this act expire by limitation on June 30, 2011.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 287.

Bill read second time.

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

Amendment No. 437.

AN ACT relating to appraisals of real estate; prohibiting the improper influence of the results of an appraisal under certain circumstances; revising provisions governing unprofessional conduct and disciplinary action for appraisers; prohibiting certain professionals from improperly influencing the results of an appraisal; **providing for the registration and regulation of appraisal management companies; revising the requirements for continuing education for appraisers;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section ~~[3]~~ 4 of this bill prohibits certain persons from improperly influencing or attempting to improperly influence the development, reporting, result or review of an appraisal under certain circumstances. **Sections 1, 2, ~~[4]~~ 24 and ~~[6]~~ 27** of this bill apply this prohibition to real estate brokers and salesmen, mortgage brokers and agents, appraisers and mortgage bankers.

Section ~~[5]~~ 25 of this bill revises provisions setting forth unprofessional conduct for an appraiser to expand the scope of conduct that is considered unprofessional with regard to appraising real estate when the appraiser's compensation is affected by the appraised value of the real estate.

Sections 5-22 and 26 of this bill provide for the registration and regulation of appraisal management companies.

Section 23 of this bill revises the requirements for continuing education for appraisers.

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

Section 1. 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, including, without limitation, an

exclusive right to sell to another broker, unless permission in writing has been obtained from 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 otherwise provided 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 otherwise provided 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 otherwise provided 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.

11. Any violation of section ~~[3]~~ 4 of this act.

Sec. 2. NRS 645B.670 is hereby amended to read as follows:

645B.670 Except as otherwise provided in NRS 645B.690:

1. For each violation committed by an applicant for a license issued pursuant to this chapter, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than $10,000 ~~[.]~~ if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have

rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a mortgage broker, the Commissioner may impose upon the mortgage broker an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage broker, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage broker knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage broker possesses and which, if submitted by him, would have rendered the mortgage broker ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage brokers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the mortgage broker is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(m) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(n) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(o) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(p) Has repeatedly violated the policies and procedures of the mortgage broker;

(q) Has failed to exercise reasonable supervision over the activities of a mortgage agent as required by NRS 645B.460;

(r) Has instructed a mortgage agent to commit an act that would be cause for the revocation of the license of the mortgage broker, whether or not the mortgage agent commits the act;

(s) Has employed a person as a mortgage agent or authorized a person to be associated with the mortgage broker as a mortgage agent at a time when the mortgage broker knew or, in light of all the surrounding facts and circumstances, reasonably should have known that the person:

(1) Had been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude; or

(2) Had a financial services license or registration suspended or revoked within the immediately preceding 10 years;

(t) ***Has violated section ~~[3]~~ 4 of this act;***

(u) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS; or

~~[(u)]~~ ***(v)*** Has not conducted verifiable business as a mortgage broker for 12 consecutive months, except in the case of a new applicant. The Commissioner shall determine whether a mortgage broker is conducting business by examining the monthly reports of activity submitted by the mortgage broker or by conducting an examination of the mortgage broker.

3. For each violation committed by a mortgage agent, the Commissioner may impose upon the mortgage agent an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the mortgage agent, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(b) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(c) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the mortgage agent knew or, by the exercise of reasonable diligence, should have known;

(d) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the mortgage agent possesses and

which, if submitted by him, would have rendered the mortgage agent ineligible to be licensed pursuant to the provisions of this chapter;

(e) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage agents or any crime involving fraud, misrepresentation or moral turpitude;

(f) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(g) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use;

(h) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice;

(i) ***Has violated section ~~[3]~~ 4 of this act;***

(j) Has repeatedly violated the policies and procedures of the mortgage broker with whom he is associated or by whom he is employed; or

~~[(j)]~~ ***(k)*** Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner or has assisted or offered to assist another person to commit such a violation.

Sec. 3. Chapter 645C of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 4 to 21, inclusive, of this act.**

Sec. 4. 1. A person with an interest in a real estate transaction involving an appraisal shall not improperly influence or attempt to improperly influence, through coercion, extortion or bribery, the development, reporting, result or review of the appraisal.

2. Subsection 1 does not prohibit a person with an interest in a real estate transaction from requesting that an appraiser:

(a) Consider additional appropriate property information;

(b) Provide further detail, substantiation or explanation for the appraiser's conclusion as to value; or

(c) Correct errors in his appraisal.

Sec. 5. "Appraisal firm" means a person, limited-liability company, partnership, association or corporation which, for compensation, prepares and communicates appraisals.

Sec. 6. "Appraisal management company" means a person, limited-liability company, partnership, association or corporation which for compensation:

1. Functions as a third-party intermediary between an appraiser and a user of real estate appraisal services;

2. Administers a network of appraisers performing real estate appraisal services as independent contractors;

3. Enters into an agreement to provide real estate appraisal services with a user of such services and one or more appraisers performing such services as independent contractors; or

4. Otherwise serves as a third-party broker of appraisal services.

➥ The term does not include an appraisal firm.

Sec. 7. ***1. There is hereby created the Account for Appraisal Management Companies in the State General Fund. The Account must be administered by the Administrator.***

2. Except as otherwise provided in sections 7 to 21, inclusive, of this act, all money received by the Commission or the Division pursuant to sections 7 to 21, inclusive, of this act must be:

(a) Deposited in the Account;

(b) Accounted for separately; and

(c) Used only to administer the provisions of sections 7 to 21, inclusive, of this act.

3. If the Commission imposes a fine or a penalty, the Commission shall deposit the amount collected with the State Treasurer for credit to the State General Fund. The Commission may present a claim to the State Board of Examiners for recommendation to the Interim Finance Committee if money is needed to pay an attorney's fee or the cost of an investigation, or both.

Sec. 8. ***Except as otherwise provided in section 9 of this act, it is unlawful for any person, limited-liability company, partnership, association or corporation to engage in the business of, act in the capacity of, advertise or assume to act as an appraisal management company without first obtaining a registration from the Division pursuant to sections 7 to 21, inclusive, of this act.***

Sec. 9. ***The provisions of sections 7 to 21, inclusive, of this act do not apply to:***

1. A person, limited-liability company, partnership, association or corporation other than an appraisal management company which, in the normal course of its business, employs persons for the performance of real estate appraisal services; or

2. An appraisal management company that enters into not more than nine contracts annually with independent contractors in this State.

Sec. 10. ***1. A person who wishes to be registered as an appraisal management company in this State must file a written application with the Division upon a form prepared and furnished by the Division and pay the fee required pursuant to section 15 of this act. An application must:***

(a) State the name, residence address and business address of the applicant and the location of each principal office and branch office at which the appraisal management company will conduct business within this State;

(b) State the name under which the applicant will conduct business as an appraisal management company;

(c) List the name, residence address and business address of each person who will, if the applicant is not a natural person, have an interest in the appraisal management company as a principal, partner, officer, director or trustee, specifying the capacity and title of each such person;

(d) Include a general business plan and a description of the policies and procedures that the appraisal management company and its employees and independent contractors will follow in providing real estate appraisal services pursuant to this chapter;

(e) Include a financial statement of the applicant; and

(f) Include a complete set of the fingerprints of the applicant or, if the applicant is not a natural person, a complete set of the fingerprints of each person who will have an interest in the appraisal management company as a principal, partner, officer, director or trustee, and written permission authorizing the Division to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. Except as otherwise provided in sections 7 to 21, inclusive, of this act, the Division shall issue a registration to an applicant as an appraisal management company if:

(a) The application is verified by the Division and complies with the requirements of sections 7 to 21, inclusive, of this act.

(b) The applicant and each general partner, officer or director of the applicant, if the applicant is a partnership, corporation or unincorporated association:

(1) Submits satisfactory proof to the Division that he has a good reputation for honesty, trustworthiness and integrity and displays competence to transact the business of an appraisal management company in a manner which safeguards the interests of the general public.

(2) Has not been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude.

(3) Has not made a false statement of material fact on his application.

(4) Has not had a license that was issued pursuant to the provisions of this chapter suspended, revoked or voluntarily surrendered in lieu of suspension or revocation within the 10 years immediately preceding the date of his application.

(5) Has not had a license that was issued in any other state, district or territory of the United States or any foreign country suspended or revoked within the 10 years immediately preceding the date of his application.

(6) Has not violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission or the Administrator.

(c) The applicant certifies that he:

(1) Has a process in place to verify that each independent contractor that provides services to the appraisal management company is the holder of a license in good standing to practice appraisal in this State.

(2) Has a process in place to review the work of each independent contractor that provides services to the appraisal management company to

ensure that those services are conducted in accordance with the Uniform Standards of Professional Appraisal Practice.

(3) Will maintain a detailed record of each request for service it receives and the independent contractor who fulfilled that request.

(d) The applicant discloses whether or not the company uses an appraiser fee schedule. For the purposes of this paragraph, "appraiser fee schedule" means a list of the various real estate appraisal services requested by the appraisal management company from independent contractors and the amount the company will pay for the performance of each service listed.

Sec. 11. 1. In addition to any other requirements set forth in this chapter:

(a) An applicant for the issuance of a registration as an appraisal management company shall include the social security number of the applicant in the application submitted to the Division.

(b) An applicant for the issuance or renewal of a registration as an appraisal management company 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; or

(b) A separate form prescribed by the Division.

3. A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 12. 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a registration as an appraisal management company 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; or

(b) A separate form prescribed by the Division.

3. A registration as an appraisal management company may not be issued or renewed by the Division if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 13. 1. An applicant for registration under sections 7 to 21, inclusive, of this act shall file with the Division, in a form prescribed by regulation, an irrevocable consent appointing the Administrator his agent for service of process in a noncriminal proceeding against him, a successor or personal representative which arises under sections 7 to 21, inclusive, of this act or a regulation or order of the Commission after the consent is filed, with the same force and validity as if served personally on the person filing the consent.

2. A person who has filed a consent complying with subsection 1 in connection with a previous application for registration need not file an additional consent.

3. If a person, including a nonresident of this State, engages in conduct prohibited or made actionable by sections 7 to 21, inclusive, of this act or a regulation or order of the Commission and the person has not filed a consent to service of process under subsection 1, engaging in the conduct constitutes the appointment of the Administrator as the person's agent for service of process in a noncriminal proceeding against him, a successor or personal representative which grows out of the conduct.

4. Service under subsection 1 or 3 may be made by leaving a copy of the process in the Office of the Administrator, but it is not effective unless:

(a) The plaintiff, who may be the Administrator, sends notice of the service and a copy of the process by registered or certified mail, return

receipt requested, to the defendant or respondent at the address set forth in the consent to service of process or, if no consent to service of process has been filed, at the last known address, or takes other steps which are reasonably calculated to give actual notice; and

(b) The plaintiff files an affidavit of compliance with this subsection in the proceeding on or before the return day of the process, if any, or within such further time as the court, or the Administrator in a proceeding before him, allows.

5. Service as provided in subsection 4 may be used in a proceeding before the Administrator or by the Administrator in a proceeding in which he is the moving party.

6. If the process is served under subsection 4, the court, or the Administrator in a proceeding before him, may order continuances as may be necessary to afford the defendant or respondent reasonable opportunity to defend.

Sec. 14. A registration issued pursuant to sections 7 to 21, inclusive, of this act expires each year on the date of its issuance, unless it is renewed. To renew such a registration, the registrant must submit to the Division on or before the expiration date:

1. An application for renewal;

2. The fee required to renew the registration pursuant to section 15 of this act; and

3. All information required to complete the renewal.

Sec. 15. A person must pay the following fee to be issued or to renew a registration as an appraisal management company pursuant to sections 7 to 21, inclusive, of this act:

1. To be issued a registration, the applicant must pay a fee set by the Division by regulation of not more than $2,500 for the principal office and not more than $100 for each branch office. The person must also pay such additional expenses incurred in the process of investigation as the Division deems necessary.

2. To renew a registration, the applicant must pay a fee set by the Division by regulation of not more than $500 for the principal office and not more than $100 for each branch office.

Sec. 16. 1. If an appraisal management company is not a natural person, the company must designate a natural person as a qualified employee to act on behalf of the appraisal management company.

2. The Commission shall adopt regulations regarding a qualified employee, including, without limitation, regulations that establish:

(a) A definition for the term "qualified employee";

(b) Any duties of a qualified employee; and

(c) Any requirements regarding a qualified employee.

Sec. 17. 1. It is unlawful for an employee, director, officer or agent of an appraisal management company to influence or attempt to influence the development, reporting or review of an appraisal through coercion,

extortion, collusion, compensation, instruction, inducement, intimidation, bribery or other means, including, without limitation:

(a) Withholding or threatening to withhold timely payment for an appraisal in order to influence or attempt to influence an appraisal;

(b) Withholding or threatening to withhold future business for an independent appraiser;

(c) Terminating an agreement with an independent contractor without prior written notice;

(d) Directly or indirectly promising future business for or increased compensation to an independent contractor;

(e) Conditioning a request for appraisal services or the payment of any compensation on the opinion, conclusion or valuation to be reached or on a preliminary estimate or opinion requested from an independent contractor;

(f) Requesting an independent contractor to provide an estimated, predetermined or desired valuation in an appraisal report or providing estimated values or comparable sales at any time before the completion of appraisal services by the independent contractor;

(g) Providing to an independent contractor an anticipated, estimated or desired value for a subject property or proposed or target amount to be loaned to a borrower, other than a copy of the sales contract for purchase transactions;

(h) Providing an independent contractor or a person or entity associated with the independent contractor stock or other financial or nonfinancial benefits;

(i) Obtaining, using or paying for a second or subsequent appraisal or ordering an automated valuation model in connection with a loan secured by a lien on real property unless:

(1) There is a reasonable basis to believe that the initial appraisal was incorrect and such basis is disclosed in writing to the borrower; or

(2) The second or subsequent appraisal or automated valuation model is performed pursuant to a bona fide appraisal review or quality control process;

(j) Compensating an appraiser in a manner which the appraisal management company knew or reasonably should have known would result in the conduct of appraisal services inconsistent with applicable appraisal standards;

(k) Accepting a fee for performing appraisal management services if the fee is contingent on:

(1) An appraisal report having a predetermined analysis, opinion or conclusion;

(2) The analysis, opinion, conclusion or valuation reached in an appraisal report; or

(3) The consequences resulting from an appraisal assignment; or

(l) Any other act or practice that impairs or attempts to impair an appraiser's independence, objectivity or impartiality.

2. Nothing in this section shall be construed as prohibiting an appraisal management company from requesting that an independent contractor provide additional information regarding the basis for a valuation or correct objective factual errors in an appraisal report.

Sec. 18. It is unlawful for an appraisal management company to alter, modify or revise a completed appraisal report submitted by an independent contractor, including, without limitation, removing the signature of the appraiser.

Sec. 19. 1. If an appraisal management company terminates its association with an independent contractor for any reason, the appraisal management company shall, not later than the third business day following the date of termination, deliver to the independent contractor or send by certified mail to the last known residence address of the independent contractor a written statement which advises him of his termination.

2. An independent contractor who is aggrieved by a termination may lodge a complaint with the Commission. The Commission may consider whether the appraisal management company violated the provisions of sections 7 to 21, inclusive, of this act and may revoke, suspend or deny renewal of a registration in the manner set forth in NRS 645C.500 to 645C.550, inclusive.

Sec. 20. 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 holder of a registration, the Division shall deem the registration to be suspended at the end of the 30th day after the date the court order was issued unless the Division receives a letter issued to the holder of the registration by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a registration 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 holder of the registration stating that the holder of the registration has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 21. 1. For each violation committed by an applicant for a registration issued pursuant to sections 7 to 21, inclusive, of this act, whether or not he is issued a registration, the Commission may impose upon the applicant an administrative fine of not more than $10,000 if the applicant:

(a) Has knowingly made or caused to be made to the Commission any false representation of material fact;

(b) Has suppressed or withheld from the Commission any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act; or

(c) Has violated any provision of sections 7 to 21, inclusive, of this act, a regulation adopted pursuant to sections 7 to 21, inclusive, of this act or an order of the Commission in completing and filing his application for a registration or during the course of the investigation of the application for a registration.

2. For each violation committed by an appraisal management company, the Commission may impose upon the appraisal management company an administrative fine of not more than $10,000, may suspend, revoke or place conditions on the registration or may do both, if the appraisal management company, whether or not acting as such:

(a) Is grossly negligent or incompetent in performing any act for which the appraisal management company is required to be registered pursuant to sections 7 to 21, inclusive, of this act;

(b) Does not conduct its business in accordance with the law or has violated any provision of this chapter, a regulation adopted pursuant thereto or an order of the Commission;

(c) Has made a material representation in connection with any transaction governed by this chapter;

(d) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the appraisal management company knew or, by the exercise of reasonable diligence, should have known;

(e) Has knowingly made or caused to be made to the Commission any false representation of material fact or has suppressed or withheld from the Commission any information which the appraisal management company possesses and which, if submitted by the appraisal management company, would have rendered the appraisal management company ineligible to be registered pursuant to the provisions of sections 7 to 21, inclusive, of this act;

(f) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of appraisal or any crime involving fraud, misrepresentation or moral turpitude; or

(g) Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

Sec. 22. **NRS 645C.010 is hereby amended to read as follows:**

645C.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 645C.020 to 645C.130, inclusive, ***and sections 5 and 6 of this act*** have the meanings ascribed to them in those sections.

Sec. 23. **NRS 645C.430 is hereby amended to read as follows:**

645C.430 1. An appraiser must complete the requirements for continuing education prescribed by regulations adopted by the Commission as a condition to the renewal of an active certificate or license or the reinstatement of an inactive certificate or license. Until the Commission adopts those regulations, the standards for continuing education are as follows:

(a) For the renewal of an active certificate or license, not less than 30 hours of instruction within the 2 years immediately preceding the application for renewal.

(b) For the reinstatement of a certificate or license which has been on inactive status**,** ~~[:~~

~~(1) For not more than 2 years, or for more than 2 years including the initial period of certification or licensure, not less than 30 hours of instruction.~~

~~(2) For more than 2 years, no part of which includes the initial period of certification or licensure,~~**]** not less than 15 hours of instruction per year for each year that the certificate or license was on inactive status**.** ~~[, not to exceed 60 hours of instruction.]~~

➥ The required hours of instruction must include the most recent edition of the 7-hour National Uniform Standards of Professional Appraisal Practice Update Course.

2. As used in this section, an "hour of instruction" means at least 50 minutes of actual time spent receiving instruction.

~~[Sec. 4.]~~ ***Sec. 24.*** NRS 645C.460 is hereby amended to read as follows:

645C.460 1. Grounds for disciplinary action against a certified or licensed appraiser or registered intern include:

(a) Unprofessional conduct;

(b) Professional incompetence;

(c) ***Any violation of section*** ~~*[3]*~~ ***4 of this act;***

(d) A criminal conviction for a felony relating to the practice of appraisers or any offense involving moral turpitude; and

~~[(d)]~~ ***(e)*** The suspension ~~[or]~~ **,** revocation ***or voluntary surrender in lieu of other discipline*** of a registration card, certificate, license or permit to act as an appraiser in any other jurisdiction.

2. If grounds for disciplinary action against an appraiser or intern exist, the Commission may do one or more of the following:

(a) Revoke or suspend his certificate, license or registration card.

(b) Place conditions upon his certificate, license or registration card, or upon the reissuance of a certificate, license or registration card revoked pursuant to this section.

(c) Deny the renewal of his certificate, license or registration card.

(d) Impose a fine of not more than $10,000 for each violation.

3. If a certificate, license or registration card is revoked by the Commission, another certificate, license or registration card must not be

issued to the same appraiser or intern for at least 1 year after the date of the revocation, or at any time thereafter except in the sole discretion of the Administrator, and then only if the appraiser or intern satisfies all the requirements for an original certificate, license or registration card.

4. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

~~[Sec. 5.]~~ ***Sec. 25.*** NRS 645C.470 is hereby amended to read as follows:

645C.470 A certified or licensed appraiser or registered intern is guilty of unprofessional conduct if he:

1. Willfully uses a trade name, service mark or insigne indicating membership in an organization for appraisers of which he is not a member;

2. Violates any order of the Commission, agreement with the Division, provision of this chapter or provision of any regulation adopted pursuant to this chapter;

3. Fails to disclose to any person with whom he is dealing any material fact or other information he knows, or in the exercise of reasonable care and diligence should know, concerning or relating to any real estate he appraises, including any interest he has in the real estate;

4. Knowingly communicates a false or fraudulent appraisal to any interested person or otherwise engages in any deceitful, fraudulent or dishonest conduct;

5. ~~[Enters]~~ ***Prepares or provides or enters*** into a contract to prepare ***or provide*** an appraisal ~~[by which]~~ ***if*** his compensation is based partially or entirely on ***, or is otherwise affected by,*** the amount of the appraised value of the real estate;

6. Before obtaining his license or registration card, engaged in any conduct of which the Division is not aware that would be a ground for the denial of a certificate, license or registration card; or

7. Makes a false statement of material fact on his application.

Sec. 26. **NRS 645C.555 is hereby amended to read as follows:**

645C.555 1. In addition to any other remedy or penalty, the Commission may impose an administrative fine against any person who knowingly:

(a) Engages or offers to engage in any activity for which a certificate, license **, *registration*** or registration card or any type of authorization is required pursuant to this chapter, or any regulation adopted pursuant thereto, if the person does not hold the required certificate, license **, *registration*** or registration card or has not been given the required authorization; or

(b) Assists or offers to assist another person to commit a violation described in paragraph (a).

2. If the Commission imposes an administrative fine against a person pursuant to this section, the amount of the administrative fine may not exceed the amount of any gain or economic benefit that the person derived from the violation or $5,000, whichever amount is greater.

3. In determining the appropriate amount of the administrative fine, the Commission shall consider:

(a) The severity of the violation and the degree of any harm that the violation caused to other persons;

(b) The nature and amount of any gain or economic benefit that the person derived from the violation;

(c) The person's history or record of other violations; and

(d) Any other facts or circumstances that the Commission deems to be relevant.

4. Before the Commission may impose the administrative fine, the Commission must provide the person with notice and an opportunity to be heard.

5. The person is entitled to judicial review of the decision of the Commission in the manner provided by chapter 233B of NRS.

6. The provisions of this section do not apply to a person who engages or offers to engage in activities within the purview of this chapter if:

(a) A specific statute exempts the person from complying with the provisions of this chapter with regard to those activities; and

(b) The person is acting in accordance with the exemption while engaging or offering to engage in those activities.

~~[Sec. 6.]~~ ***Sec. 27.*** NRS 645E.670 is hereby amended to read as follows:

645E.670 1. For each violation committed by an applicant, whether or not he is issued a license, the Commissioner may impose upon the applicant an administrative fine of not more than $10,000 ~~[.]~~ if the applicant:

(a) Has knowingly made or caused to be made to the Commissioner any false representation of material fact;

(b) Has suppressed or withheld from the Commissioner any information which the applicant possesses and which, if submitted by him, would have rendered the applicant ineligible to be licensed pursuant to the provisions of this chapter; or

(c) Has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner in completing and filing his application for a license or during the course of the investigation of his application for a license.

2. For each violation committed by a licensee, the Commissioner may impose upon the licensee an administrative fine of not more than $10,000, may suspend, revoke or place conditions upon his license, or may do both, if the licensee, whether or not acting as such:

(a) Is insolvent;

(b) Is grossly negligent or incompetent in performing any act for which he is required to be licensed pursuant to the provisions of this chapter;

(c) Does not conduct his business in accordance with law or has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner;

(d) Is in such financial condition that he cannot continue in business with safety to his customers;

(e) Has made a material misrepresentation in connection with any transaction governed by this chapter;

(f) Has suppressed or withheld from a client any material facts, data or other information relating to any transaction governed by the provisions of this chapter which the licensee knew or, by the exercise of reasonable diligence, should have known;

(g) Has knowingly made or caused to be made to the Commissioner any false representation of material fact or has suppressed or withheld from the Commissioner any information which the licensee possesses and which, if submitted by him, would have rendered the licensee ineligible to be licensed pursuant to the provisions of this chapter;

(h) Has failed to account to persons interested for all money received for a trust account;

(i) Has refused to permit an examination by the Commissioner of his books and affairs or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the Commissioner pursuant to the provisions of this chapter or a regulation adopted pursuant to this chapter;

(j) Has been convicted of, or entered a plea of nolo contendere to, a felony relating to the practice of mortgage bankers or any crime involving fraud, misrepresentation or moral turpitude;

(k) Has refused or failed to pay, within a reasonable time, any fees, assessments, costs or expenses that the licensee is required to pay pursuant to this chapter or a regulation adopted pursuant to this chapter;

(l) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(m) Has failed to satisfy a claim made by a client which has been reduced to judgment;

(n) Has failed to account for or to remit any money of a client within a reasonable time after a request for an accounting or remittal;

(o) ***Has violated section ~~[3]~~ 4 of this act;***

(p) Has commingled the money or other property of a client with his own or has converted the money or property of others to his own use; or

~~[(p)]~~ ***(q)*** Has engaged in any other conduct constituting a deceitful, fraudulent or dishonest business practice.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 28. **1. This section, sections 5 to 11, inclusive, 13 to 22, inclusive, and 26 of this act become effective upon passage and approval for the purpose of adopting regulations and on January 1, 2010, for all other purposes.**

2. Sections 1 to 4, inclusive, 23, 24, 25 and 27 of this act become effective on July 1, 2009.

3. The provisions of sections 11 and 20 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

4. Section 12 of this act becomes effective on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a procedure to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 416.

Bill read second time.

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

Amendment No. 508.

AN ACT relating to water; requiring the State Engineer or a person designated by him to conduct an inventory of a basin before approving an application for an interbasin transfer of groundwater under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the State Engineer to consider certain factors when determining if an application for an interbasin transfer of groundwater must be rejected, including whether there is a justified need to import the water from another basin, if there is an advisable plan for the conservation of water in place, whether the proposed action is environmentally sound and whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported. (NRS 533.370) In addition to those requirements, **section 4** of this bill requires that, before the State Engineer may approve an interbasin

transfer of groundwater, he must conduct an inventory of the basin from which the water is to be exported if it is a basin which the State Engineer has not already inventoried. The inventory must include: (1) the total amount of surface water and groundwater **[~~in the basin;~~]** **appropriated in accordance with a decreed, certified or permitted right;** (2) **an estimate of** the amount **and location** of **all surface** water **[~~already appropriated~~]** **and groundwater available for appropriation** in the basin; **and** (3) **[~~the number of persons who have a decreed, certified or permitted right to appropriate water in the basin; and (4)~~]** the names of **[~~those persons.~~]** **each owner of record of a decreed, certified or permitted right in the basin.** The applicant for the interbasin transfer of groundwater must pay a fee to cover the cost of conducting the inventory. **Section 4 also requires the State Engineer to complete an inventory within 1 year after commencing the inventory. Section 5 of this bill expands the definition of "person" for purposes of chapter 533 of NRS to include a political subdivision of this State.**

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

Section 1. Chapter 533 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 533.010 to 533.023, inclusive, and section 3 of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Interbasin transfer of groundwater" means a transfer of groundwater for which the proposed point of diversion is in a different basin than the proposed place of beneficial use.***

Sec. 4. ***1. In addition to the requirements of NRS 533.370, before approving an application for an interbasin transfer of more than 250 acre-feet of groundwater [~~for~~] from a basin which the State Engineer has not previously inventoried or for which he has not conducted , or caused to be conducted, a study pursuant to NRS 532.165 or 533.368, the State Engineer or a person designated by the State Engineer shall conduct an inventory of the basin from which the water is to be exported. The inventory must include : [~~, without limitation:~~]***

(a) The total amount of surface water and groundwater appropriated [~~or~~] in accordance with a decreed, certified or permitted right;

(b) An estimate of the amount and location of all surface water and groundwater that is available for appropriation in the basin; and

[~~(b) The amount of water already appropriated in the basin;~~]

(c) [~~The number of persons who have a decreed, certified or permitted right to appropriate water in the basin; and~~]

[~~(d)~~] The name of each [~~person identified in paragraph (c).~~] owner of record set forth in the records of the Office of the State Engineer for each decreed, certified or permitted right in the basin.

2. The provisions of this section do not:

(a) Require the State Engineer to initiate or complete a determination of the surface water or groundwater rights pursuant to NRS 533.090 to 533.320, inclusive, or to otherwise quantify any vested claims of water rights in the basin before approving an application for an interbasin transfer of groundwater from the basin; or

(b) Prohibit the State Engineer from considering information received from or work completed by another person to include in the inventory, if the inventory is otherwise conducted in accordance with the provisions of subsection 1.

3. The State Engineer shall charge the applicant a fee to cover the cost of the inventory. The amount of the fee must not exceed the cost to the State Engineer of conducting the inventory.

4. The State Engineer shall complete any inventory conducted pursuant to subsection 1 within 1 year after commencing the inventory.

Sec. 5. NRS 533.010 is hereby amended to read as follows:

533.010 ~~[As used in this chapter, "person"]~~ ***"Person"*** includes the United States***,*** ~~[and]~~ this State ~~[.]~~ ***and any political subdivision of this State.***

Sec. 6. NRS 533.015 is hereby amended to read as follows:

533.015 ~~[As used in this chapter,]~~ "State Engineer" ~~[shall be deemed to mean]~~ ***means*** the State Engineer or any duly authorized assistant.

Sec. 7. NRS 533.020 is hereby amended to read as follows:

533.020 ~~[As used in this chapter, "stream]~~ ***"Stream*** system" ~~[shall be interpreted as including]~~ ***includes*** any stream, together with its tributaries and all streams or bodies of water to which the same may be tributary.

Sec. 8. NRS 533.023 is hereby amended to read as follows:

533.023 ~~[As used in this chapter, "wildlife]~~ ***"Wildlife*** purposes" includes the watering of wildlife and the establishment and maintenance of wetlands, fisheries and other wildlife habitats.

Sec. 9. ~~[NRS 533.324 is hereby amended to read as follows:~~

~~533.324 As used in NRS 533.325, 533.345 and 533.425,~~ ***and section 4 of this act,*** ~~"water already appropriated" includes water for whose appropriation the State Engineer has issued a permit but which has not been applied to the intended use before an application to change the place of diversion, manner of use or place of use is made.]~~ **(Deleted by amendment.)**

Sec. 10. NRS 533.369 is hereby amended to read as follows:

533.369 1. All money collected pursuant to subsection 3 of NRS 533.368 ***or subsection*** ~~*[2]*~~ ***3 of section 4 of this act*** must be deposited with the State Treasurer for credit to a special Account for Studies Concerning Water.

2. The interest and income earned on the money in the Account for Studies Concerning Water, after deducting any applicable charges, must be credited to the Account.

3. The money received pursuant to subsection 3 of NRS 533.368 ***or subsection*** ~~*[2]*~~ ***3 of section 4 of this act*** must be used to defray the cost of conducting the studies required pursuant to subsection 1 of NRS 533.368 ~~[.]~~

and the inventories required pursuant to subsection 1 of section 4 of this act. Any money paid by an applicant that exceeds the amount required to conduct a study must be refunded to the applicant.

4. Any balance remaining in the Account does not revert to the State General Fund at the end of the fiscal year.

Sec. 11. NRS 533.370 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

(b) In areas where studies of water supplies have been determined to be necessary by the State Engineer pursuant to NRS 533.368 or where court

actions are pending, withhold action until it is determined there is unappropriated water or the court action becomes final.

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

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

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

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

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

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

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

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

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

8. If:

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

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

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

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

➥ the State Engineer shall notice a new period of 45 days in which a person who is a successor in interest to a protestant or an affected water right owner may file with the State Engineer a written protest against the granting of the application. Such notification must be entered on the Internet website of the State Engineer and must, concurrently with that notification, be mailed to the board of county commissioners of the county of origin.

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

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

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

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

13. As used in this section:

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

(b) ”Domestic well” has the meaning ascribed to it in NRS 534.350.

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

Sec. 12. **The amendatory provisions of this act do not apply to an application for an interbasin transfer of groundwater for which a notice of hearing is issued before July 1, 2009.**

~~[Sec. 12.]~~ ***Sec. 13.*** This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 225 be taken from its position on the Second Reading File and placed at the top of the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 225.

Bill read second time.

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

Amendment No. 359.

AN ACT relating to county fire departments; requiring a board of county commissioners that creates a district for a fire department to adopt an ordinance requiring the imposition and collection of fees for the transportation of sick or injured persons by the department to a medical facility; **requiring such an ordinance in a county whose population is over 400,000 to limit the number of such transports by the department and to report to the Legislature the fees charged for and the number of such transports;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the board of county commissioners, in a county where a district for a fire department has been created and where the fire department transports sick or injured persons to a medical facility, to adopt an ordinance that either: (1) requires the fire department to impose and collect fees to defray the expenses of furnishing such transportation; or (2) prohibits the imposition and collection of such fees. (NRS 244.2961) **Section 1** of this bill repeals the option of adopting an ordinance prohibiting the imposition and collection of such fees. **Section 1 also requires that, in a county whose population is 400,000 or more (currently Clark County), such an ordinance limit the number of transports the fire department may make each month to not more than 25 percent of the transports made each month by all public and private entities in the county.** **Section 2** of this bill, with respect to a county that has already adopted an ordinance

prohibiting the imposition and collection of such fees, allows the county until January 1, 2010, to amend or repeal that ordinance. **Section 3 of this bill requires the board of county commissioners of a county whose population is 400,000 or more to submit an annual report to the Legislature on the number of monthly transports made by the fire department, both in total and as a percentage of total transports by all public and private entities, and the fees charged for those transports.**

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

Section 1. NRS 244.2961 is hereby amended to read as follows:

244.2961 1. The board of county commissioners may by ordinance create a district for a fire department. The board of county commissioners is ex officio the governing body of any district created pursuant to this section and may:

(a) Organize, regulate and maintain the fire department.

(b) Appoint and prescribe the duties of the fire chief.

(c) Designate arson investigators as peace officers.

(d) Regulate or prohibit the storage of any explosive, combustible or inflammable material in or transported through the county, and prescribe the distance from any residential or commercial area where it may be kept. Any ordinance adopted pursuant to this paragraph that regulates places of employment where explosives are stored must be at least as stringent as the standards and procedures adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(e) Establish, by ordinance, a fire code and other regulations necessary to carry out the purposes of this section.

(f) Include the budget of the district in the budget of the county.

(g) Hold meetings of the governing body of the district in conjunction with the meetings of the board of county commissioners without posting additional notices of the meetings within the district.

2. If the fire department transports sick or injured persons to a medical facility, the board of county commissioners shall adopt ~~[:]~~ ***an ordinance:***

(a) ~~[An ordinance:~~

~~(1)]~~ Requiring the fire department to defray the expenses of furnishing such transportation by imposing and collecting fees; and

~~[(2)]~~ ***(b)*** Establishing a schedule of such fees **.** ~~[; or~~

~~(b) An ordinance prohibiting the imposition and collection of any fees for such transportation.]~~

3. ***The board of county commissioners of a county whose population is 400,000 or more shall, when adopting an ordinance pursuant to subsection 2, limit the number of transports of sick or injured persons to a medical facility that the fire department may make each month to not more than 25 percent of the total number of such transports made in the county in the corresponding month during the previous year by both the fire department***

and all private entities that make such transports, excluding transports made in any incorporated city in the county.

4. The other officers and employees of the county shall perform duties for the district that correspond to the duties they perform for the county.

~~[4.]~~ ***5.*** All persons employed to perform the functions of the fire department are employees of the county for all purposes.

Sec. 2. A board of county commissioners shall amend any ordinance previously adopted by that body which does not conform with the provisions of NRS 244.2961, as amended by section 1 of this act, by January 1, 2010. Any ordinance that does not comply with NRS 244.2961, as amended by section 1 of this act, by January 1, 2010, shall be deemed to conform with NRS 244.2961, as amended by section 1 of this act, by operation of law.

Sec. 3. **The board of county commissioners of a county whose population is 400,000 or more shall submit an annual report to the Director of the Legislative Counsel Bureau no later than January 15 of each year for transmittal to the Legislature, if the Legislature is in session that year, or to the Legislative Commission, if the Legislature is not in session that year. The report must include, without limitation:**

1. The fees charged for transport by the fire department of sick or injured persons to a medical facility;

2. The number of such transports made per month by the fire department;

3. The number of such transports made per month by the fire department as a percentage of all transports made to medical facilities on a monthly basis; and

4. A statement detailing, if applicable, any event of an unusual nature that might have had an effect on the percentage of all transports in a month made by the fire department, including, without limitation, a natural disaster or other emergency situation that resulted in a large number of persons who needed to be transported to a medical facility.

~~[Sec. 3.]~~ ***Sec. 4.*** This act becomes effective on July 1, 2009.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved to withdraw Amendment No. 359 to Assembly Bill No. 225.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 225.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 522.

AN ACT relating to county fire departments; requiring a board of county commissioners that creates a district for a fire department to adopt an ordinance requiring the imposition and collection of fees for the transportation of sick or injured persons by the department to a medical

facility; **mandating that such an ordinance in a county whose population is 400,000 or more limit the number of such transports by the department and require an annual report to the Legislature of the fees charged for, and the number of, such transports;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the board of county commissioners, in a county where a district for a fire department has been created and where the fire department transports sick or injured persons to a medical facility, to adopt an ordinance that either: (1) requires the fire department to impose and collect fees to defray the expenses of furnishing such transportation; or (2) prohibits the imposition and collection of such fees. (NRS 244.2961) **Section 1** of this bill repeals the option of adopting an ordinance prohibiting the imposition and collection of such fees ~~[.]~~ **, except in counties for which a nonprofit corporation has been granted an exclusive franchise to provide ambulance service. Section 1 also requires that, in a county whose population is 400,000 or more (currently Clark County), such an ordinance limit the number of transports the fire department may make annually to not more than 1,000 transports, with an exception for emergency situations in which a private ambulance is not available.** **Section 2** of this bill, with respect to a county that has already adopted an ordinance prohibiting the imposition and collection of such fees, allows the county until January 1, 2010, to amend or repeal that ordinance. **Section 3 of this bill requires the board of county commissioners of a county whose population is 400,000 or more to submit an annual report to the Legislature regarding the number of yearly transports made by the fire department and the fees charged for those transports.**

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

Section 1. NRS 244.2961 is hereby amended to read as follows:

244.2961 1. The board of county commissioners may by ordinance create a district for a fire department. The board of county commissioners is ex officio the governing body of any district created pursuant to this section and may:

(a) Organize, regulate and maintain the fire department.

(b) Appoint and prescribe the duties of the fire chief.

(c) Designate arson investigators as peace officers.

(d) Regulate or prohibit the storage of any explosive, combustible or inflammable material in or transported through the county, and prescribe the distance from any residential or commercial area where it may be kept. Any ordinance adopted pursuant to this paragraph that regulates places of employment where explosives are stored must be at least as stringent as the standards and procedures adopted by the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 618.890.

(e) Establish, by ordinance, a fire code and other regulations necessary to carry out the purposes of this section.

(f) Include the budget of the district in the budget of the county.

(g) Hold meetings of the governing body of the district in conjunction with the meetings of the board of county commissioners without posting additional notices of the meetings within the district.

2. ~~[If]~~ ***Except as otherwise provided in subsection 6, if*** the fire department transports sick or injured persons to a medical facility, the board of county commissioners shall adopt ~~[:]~~ ***an ordinance:***

(a) ~~[An ordinance:~~

~~(1)]~~ Requiring the fire department to defray the expenses of furnishing such transportation by imposing and collecting fees; and

~~[(2)]~~ ***(b)*** Establishing a schedule of such fees ***.*** ~~[; or~~

~~(b) An ordinance prohibiting the imposition and collection of any fees for such transportation.]~~

3. ***The board of county commissioners of a county whose population is 400,000 or more shall, when adopting an ordinance pursuant to subsection 2:***

(a) Limit the number of transports of sick or injured persons to a medical facility that may be made by the fire department to not more than 1,000 such transports per year, except that the fire department may, exclusive of the limit, make any such emergency transport that is necessary for the health or life of a sick or injured person when other ambulance services are not available; and

(b) Require the fire department to report to the board the total number of transports of sick or injured persons to a medical facility that are made by the fire department each month.

4. The other officers and employees of the county shall perform duties for the district that correspond to the duties they perform for the county.

~~[4.]~~ ***5.*** All persons employed to perform the functions of the fire department are employees of the county for all purposes.

6. The provisions of subsection 2 do not apply to any county for which a nonprofit corporation has been granted an exclusive franchise for ambulance service in that county.

Sec. 2. A board of county commissioners shall amend any ordinance previously adopted by that body which does not conform with the provisions of NRS 244.2961, as amended by section 1 of this act, by January 1, 2010. Any ordinance that does not comply with NRS 244.2961, as amended by section 1 of this act, by January 1, 2010, shall be deemed to conform with NRS 244.2961, as amended by section 1 of this act, by operation of law.

Sec. 3. **The board of county commissioners of a county whose population is 400,000 or more shall submit an annual report to the Director of the Legislative Counsel Bureau not later than January 15 of each year for transmittal to the Legislature, if the Legislature is in**

session that year, or to the Legislative Commission, if the Legislature is not in session that year. The report must include, without limitation:

1. The fees charged by the fire department for transport of sick or injured persons to a medical facility; and

2. The number of such transports that are made by the fire department each calendar year.

~~[Sec. 3.]~~ ***Sec. 4.*** This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 25 and 480 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 25.

Bill read third time.

Remarks by Assemblyman Atkinson.

Roll call on Assembly Bill No. 25:

YEAS—40.

NAYS—Cobb, Gustavson—2.

Assembly Bill No. 25 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 480.

Bill read third time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 529.

AN ACT relating to water; revising the fees collected by the State Engineer; ~~[providing for an automatic biennial increase of such fees;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill adds several additional fees and increases various existing fees collected by the State Engineer**.** ~~[and provides for an automatic cumulative increase of certain fees collected by the State Engineer by 5 percent every 2 years beginning on July 1, 2011. (NRS 533.435)]~~

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

Section 1. NRS 533.435 is hereby amended to read as follows:

533.435 1. The State Engineer shall collect the following fees:

For examining and filing an application for a permit to appropriate water .....~~[$250.00]~~ ***$300.00***

This fee includes the cost of publication, which is ..... $50.

For reviewing a corrected application or map, or both, in connection with an application for a permit to appropriate water ***100.00***

For examining and acting upon plans and specifications for construction of a dam .....~~[~~500.00~~]~~ ***$1,000.00***

For examining and filing an application for each permit to change the point of diversion, manner of use or place of use of an existing right .....~~[~~$150.00~~]~~ ***200.00***

This fee includes the cost of the publication of the application, which is $50.

For issuing and recording each permit to appropriate water for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water or watering livestock or wildlife purposes .....~~[~~150.00~~]~~ ***300.00***

plus ~~[~~$2~~]~~ ***$3*** per acre-foot approved or fraction thereof.

For issuing and recording each permit to change an existing right whether temporary or permanent for any purpose, except for generating hydroelectric power which results in nonconsumptive use of the water, for watering livestock or wildlife purposes which change the point of diversion or place of use only ~~[~~, or for irrigational purposes which change the point of diversion or place of use only~~]~~..... ~~[~~100.00~~]~~ ***250.00***

plus ~~[~~$2~~]~~ ***$3*** per acre-foot approved or fraction thereof.

~~[~~For issuing and recording each permit to change the point of diversion or place of use only of an existing right whether temporary or permanent for irrigational purposes 200.00~~]~~

For issuing and recording each permit to appropriate or change the point of diversion or place of use of an existing right only whether temporary or permanent for watering livestock or wildlife purposes.....***200.00***

plus $50 for each second-foot of water approved or fraction thereof **.** ~~[~~$50.00~~]~~

For issuing and recording each permit to appropriate or change an existing right whether temporary or permanent for water for generating hydroelectric power which results in nonconsumptive use of the water.....***400.00***

plus $50 for each second-foot of water approved or fraction thereof **.** ~~[~~100.00

~~This fee must not exceed $1,000.]~~

For issuing a waiver in connection with an application to drill a well ***100.00***

For filing a secondary application under a reservoir permit .. ~~[~~200.00~~]~~ ***250.00***

For approving and recording a secondary permit under a reservoir permit ..... ~~[~~200.00~~]~~ ***450.00***

For reviewing each tentative subdivision map.....150.00

plus $1 per lot.

For reviewing and approving each final subdivision map ***100.00***

For storage approved under a dam permit for privately owned nonagricultural dams which store more than 50 acre-feet ..... ~~[~~100.00~~]~~ ***400.00***

plus $1 per acre-foot storage capacity. This fee includes the cost of inspection and must be paid annually.

For filing proof of completion of work ..... ~~[~~10.00~~]~~ ***50.00***

For filing proof of beneficial use 50.00

For filing proof of resumption of a water right ***300.00***

For filing any protest 25.00

For filing any application for extension of time within which to file proofs 100.00

For reviewing a cancellation of a water right pursuant to a petition for review ***300.00***

For examining and filing a report of conveyance filed pursuant to paragraph (a) of subsection 1 of NRS 533.384 ..... ~~[~~25.00~~]~~ ***$100.00***

plus ~~[~~$10~~]~~ ***$20*** per conveyance document **.**

For filing any other instrument ..... ~~[~~1.00~~]~~ ***10.00***

For making copy of any document recorded or filed in his office, for the first page 1.00

For each additional page ..... .20

For certifying to copies of documents, records or maps, for each certificate ..... ~~[~~1.00~~]~~ ***5.00***

For each blueprint copy of any drawing or map, per square foot ..... ~~[~~.50~~]~~ ***5.00***

The minimum charge for a blueprint copy, per print 3.00

For colored mylar plots ***10.00***

2. ~~*[On July 1, 2011, and on July 1 of each odd-numbered year thereafter, the State Engineer shall increase cumulatively the amount of each fee described in subsection 1 by 5 percent, rounded to the nearest dollar, as determined by the State Engineer.*~~

~~*3.]*~~ When fees are not specified in subsection 1 for work required of his office, the State Engineer shall collect the actual cost of the work.

3. ~~*[4.]*~~ Except as otherwise provided in this subsection, all fees collected by the State Engineer under the provisions of this section must be deposited in the State Treasury for credit to the General Fund. All fees received for blueprint copies of any drawing or map must be kept by him and used only to pay the costs of printing, replacement and maintenance of printing equipment. Any publication fees received which are not used by him for publication expenses must be returned to the persons who paid the fees. If, after exercising due diligence, the State Engineer is unable to make the refunds, he shall deposit the fees in the State Treasury for credit to the General Fund. The State Engineer may maintain, with the approval of the

State Board of Examiners, a checking account in any bank or credit union qualified to handle state money to carry out the provisions of this subsection. The account must be secured by a depository bond satisfactory to the State Board of Examiners to the extent the account is not insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bills Nos. 215, 225, 227, 235, 262, 287, 416, and 480.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Assembly Bills Nos. 215, 225, 227, 235, 262, 416, and 480 be declared emergency measures under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 215.

Bill read third time.

Remarks by Assemblyman Oceguera.

Roll call on Assembly Bill No. 215:

YEAS—42.

NAYS—None.

Assembly Bill No. 215 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that Assembly Bill No. 227 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 235.

Bill read third time.

Remarks by Assemblyman Hardy.

Roll call on Assembly Bill No. 235:

YEAS—42.

NAYS—None.

Assembly Bill No. 235 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 262.

Bill read third time.

Remarks by Assemblyman Anderson.

Roll call on Assembly Bill No. 262:

YEAS—42.

NAYS—None.

Assembly Bill No. 262 having received a two-thirds majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Assembly Bill No. 287.

Bill read third time.

Remarks by Assemblyman Horne.

Roll call on Assembly Bill No. 287:

YEAS—42.

NAYS—None.

Assembly Bill No. 287 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 416.

Bill read third time.

Remarks by Assemblyman Goicoechea.

Roll call on Assembly Bill No. 416:

YEAS—42.

NAYS—None.

Assembly Bill No. 416 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 225.

Bill read third time.

Remarks by Assemblywomen Pierce, Gansert and Kirkpatrick.

Roll call on Assembly Bill No. 225:

YEAS—38.

NAYS—Cobb, Goedhart, Gustavson, McArthur—4.

Assembly Bill No. 225 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 480 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 480.
Bill read third time.
Remarks by Assemblyman Goedhart.
Roll call on Assembly Bill No. 480:
YEAS—39.
NAYS—Cobb, Gustavson, Hambrick—3.
Assembly Bill No. 480 having received a two-thirds majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 11:38 a.m.

ASSEMBLY IN SESSION

At 11:39 a.m.
Madam Speaker presiding.
Quorum present.

Assembly Bill No. 101.
Bill read third time.
Remarks by Assemblyman Hambrick.
Roll call on Assembly Bill No. 101:
YEAS—42.
NAYS—None.
Assembly Bill No. 101 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 121.
Bill read third time.
Remarks by Assemblywomen Koivisto and Smith.
Assemblymen Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN KOIVISTO:

Thank you, Madam Speaker. Assembly Bill 121 requires certain hospitals in Washoe and Clark Counties to create staffing committees responsible for drafting documented staffing plans that address the number, skill mix, and classification of licensed nurses required for each unit in the facility. Certain other health care facilities in the same counties must also make available to the Health Division documented staffing plans.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of AB 121. I just wanted to commend my colleague from District 14; this could be the bill that memorializes her efforts. This is a bill that has been worked on for probably five sessions, and it's with a great deal of effort and work that this has been accomplished in this session. It took a lot of effort from a lot of folks, and I want

to commend her and say this is really a big step forward for the people who work in those facilities.

Roll call on Assembly Bill No. 121:

YEAS—41.

NAYS—Goedhart.

Assembly Bill No. 121 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 521 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 521.

Bill read third time.

Remarks by Assemblymen Conklin, Gansert, Hardy, and Oceguera.

Potential conflict of interest declared by Assemblyman Oceguera.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN CONKLIN:

Thank you, Madam Speaker. Assembly Bill 521 provides that a person employed as a firefighter for two years or more is entitled to a rebuttal presumption that disabling cancer arose out of and in the course of employment if he was exposed to a known carcinogen reasonably associated with his cancer. This measure adds four substances to the list of known carcinogens reasonably associated with certain disabling cancers of firefighters. It also requires each covered employee to submit to a physical examination upon employment and annually during his employment at the employer's expense.

Having had a member of my family pass away, who retired as a firefighter in California, from a very aggressive cancer, I just can't stress enough how important it is that we take care of the people who we rely on to protect our lives. I urge passage of this bill.

ASSEMBLYWOMAN GANSERT:

Thank you, Madam Speaker. I rise in opposition to AB 521. The testimony that we had—some was compelling, but I was very concerned about the fiscal notes. Right now there are some of the different cases where you would be presumed to have gotten the cancer from exposure at five years—this was moving it to two years and also expanding it to include prostrate cancer and skin cancer and some other things. For that reason, I am in opposition to this bill.

ASSEMBLYMAN HARDY:

Thank you, Madam Speaker. I rise in support of firefighters but unfortunately am opposed to the bill as written. I have a problem with trying to legislate into statute how often we do a thyroid ultrasound and a PSA without age limits or without some fencing off of the issues. In my research I looked at particularly thyroid cancer, and I appreciated the information that I received from firefighters about the increased incidence of thyroid cancer of firefighters in Clark County.

I have not been able to corroborate, through the medical literature on thyroid cancer particularly. I think a yearly thyroid ultrasound may be an over-shoot as well as a yearly PSA,

which has its own problem, at what age if at all and how often it should been done. I will be voting against this.

ASSEMBLYMAN OCEGUERA:

Thank you, Madam Speaker. First, under Rule 23, I am employed as a professional firefighter, but this bill will not affect me any differently than any other firefighter, so I will be voting for it.

I rise in support of AB 521. I think too often in the heat of this legislative process, those of us in this Chamber get so immersed in the details of the amendments and the process and the numbers on the spreadsheets that we lose sight of the human faces we are dealing with. I think we all recognize that firefighters risk their lives every day to protect us. There are some pretty good movies and TV shows that have done a good job portraying firefighters and the jobs they do—rescuing people, comforting victims. What is not well understood is the risk they take after the fire, when they breathe toxic chemicals or it is absorbed through their skin. Even on the smallest of fires, too many firefighters are contracting forms of cancer. This bill simply says that we are going to make sure those that get cancer get taken care of.

To put a human face on that issue, we have with us today in the gallery, 16 firefighters who are battling cancer as a result of their work on our behalf. They come from all parts of this state; they live in the districts of ten of us sitting on this floor. They range in age from 31 to 59 and have between 4 years of service and 34 years of service. They have thyroid cancer, cancer of the pituitary gland, prostrate cancer, testicular cancer, kidney cancer, lymphoma cancer, and stage four brain cancer; their prognoses vary. This legislation will not affect them, but these men felt it important to be here today to make sure that the men and women that come after them have full protection of our laws to ensure that when firefighters are diagnosed with cancer as a result of an exposure on the job, they can get treatment and they can get the help they deserve.

Madam Speaker, if you will indulge me for just a moment I would like to name those folks that are in our gallery today:

Dean Fletcher, age 50, 28 years of service, papillary thyroid cancer, hails from District 13; Jayson Calhoun, age 32, 14 years of service, tumor on the pituitary, comes from District 13; Tyler Ferguson, age 31, 6 years of service, thyroid cancer, District 13; Kevin Evans, age 38, 4.5 years of service, brain cancer, District 3; Jeff Friend, age 36, 6 years of service, thyroid cancer, coming from my own district; Dave Jarvis, age 59, 29 years of service, prostate cancer, District 31; Tim Iveson, age 49, 25 years of service, prostate cancer, District 25; Jim Colombini, age 55, 30 years of service, prostate cancer, District 25; Mark Bohach, age 48, 25 years of service, thyroid cancer, District 40; Greg Johnson, age 51, 28 years of service, prostate cancer, District 39; Greg Gross, age 57, 34 years of service, testicular cancer, District 39; Aaron Crownover, age 35, 10 years of service, thyroid cancer, District 26; Shawn Gilbert, age 47, 29 years of service, kidney cancer, District 32; Lee Robles, age 53, 24 years of service, lymphomic cancer, District 24; Shawn Williams, age 46, 28 years of service, prostate cancer; and Ralph Luna, age 48, 28 years of service, prostate cancer, District 22.

Madam Speaker, I urge your support of this legislation. We have worked on this for so many years. We have finally shown that the cities and the counties are not taking care of this problem as they should. It is still a rebuttable presumption. If we do this test—the testing at the beginning which does cost a little money up front, but then we know if you have cancer when you came on the job or you don't—then the presumption can be rebutted. I urge your support.

Roll call on Assembly Bill No. 521:

YEAS—29.

NAYS—Carpenter, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—13.

Assembly Bill No. 521 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 186.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 186:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

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

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bill No. 252 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Arberry moved that Assembly Bill No. 364 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 364.

Bill read third time.

The following amendment was proposed by Assemblymen Mastroluca, Smith, Hardy and Buckley:

Amendment No. 530.

AN ACT relating to the protection of children; making various changes to provisions governing the court-ordered admission of a child to a locked facility; requiring a court to provide a hearing to determine whether to include rights to visitation of siblings in a decree of adoption; requiring the development of policies concerning certain medication given to children with emotional disturbances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the procedure for petitioning a court to order the admission of certain children with emotional disturbances to a locked facility for treatment. (NRS 432B.607-432B.6085) **Section 1.3** of this bill clarifies that as used in those provisions, "court-ordered admission of a child" includes a child for whom a petition is filed to continue placement after an emergency admission. **Section 1.5** of this bill requires each agency which provides child welfare services to establish appropriate policies ~~[concerning the monitoring, use and distribution of]~~ **to ensure that children in the custody of the agency have timely access to clinically appropriate** psychotropic medication**.** ~~[to children who are in the custody of the agency.]~~ **Section 11** of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to adopt consistent policies

with respect to ~~[the distribution of]~~ **access to** such medication ~~[to]~~ **by** children in division facilities.

Section 3 of this bill requires a petition for the court-ordered admission of a child with an emotional disturbance into a locked facility to be filed within 5 days after an emergency admission or the child must be released. (NRS 432B.6075) **Section 4** of this bill clarifies that the court proceeding for the court-ordered admission of a child who is alleged to be a child with an emotional disturbance must include an evidentiary hearing. (NRS 432B.6076) **Section 5** of this bill expands the manner in which a person is allowed to oppose a petition for the court-ordered admission of a child into a locked facility to include an opposition stated verbally in court. **Section 6** of this bill provides that if a court authorizes a second evaluation team to examine a child who is subject to a court-ordered admission to a locked facility, the second examination must be conducted within 5 business days by a team that is not affiliated with, employed by or otherwise connected to the facility where the child has been admitted. (NRS 432B.6078) **Section 7** of this bill requires a court to apply the same standards in considering a petition to renew a court-ordered admission of a child as were applied to the original petition. **Section 8** of this bill extends the time for developing a plan for the care, treatment and training of a child subject to a court-ordered admission to a locked facility from 5 to 10 days after the child is admitted to the facility, and removes the requirement that the plan include certain criteria which the child must satisfy before discharge.

Section 10 of this bill requires a court to conduct a hearing to determine whether to grant visitation rights to a sibling as part of an adoption decree when the adoption is of a child in the custody of an agency which provides child welfare services. **Section 10** further requires the agency which provides child welfare services to provide the court that is conducting the adoption proceedings with a copy of any existing order for visitation with a sibling of the child and allows certain interested parties to petition to participate in the determination as to whether to include visitation rights in the adoption decree.

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

Section 1. Chapter 432B 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. ***"Court-ordered admission of a child" includes, without limitation:***

1. A child who is in the custody of an agency which provides child welfare services and who is not in a facility whom the court orders to be admitted to a facility; and

2. A child who has been placed in a facility under an emergency admission and whom the court orders to be admitted for the purpose of continuing the placement.

Sec. 1.5. ***Each agency which provides child welfare services shall establish appropriate policies*** ~~*[concerning the monitoring, use and distribution of psychotropic medication to children who are in the custody of the agency.]*~~ ***to ensure that children in the custody of the agency have timely access to clinically appropriate psychotropic medication. The policies must include, without limitation, policies concerning:***

1. The use of psychotropic medication in a manner that has not been tested or approved by the United States Food and Drug Administration, including, without limitation, the use of such medication for a child who is of an age that has not been tested or approved or who has a condition for which the use of the medication has not been tested or approved;

2. Prescribing any psychotropic medication for use by a child who is less than 4 years of age;

3. The concurrent use by a child of three or more classes of psychotropic medication; and

4. The concurrent use by a child of two psychotropic medications of the same class.

Sec. 2. NRS 432B.607 is hereby amended to read as follows:

432B.607 As used in NRS 432B.607 to 432B.6085, inclusive, ***and section 1.3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 432B.6071 to 432B.6074, inclusive, ***and section 1.3 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 432B.6075 is hereby amended to read as follows:

432B.6075 ***1.*** A proceeding for a court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility may be commenced by the filing of a petition with the clerk of the court which has jurisdiction in proceedings concerning the child. The petition may be filed by the agency which provides child welfare services without the consent of a parent of the child. The petition must be accompanied:

~~[1.]~~ ***(a)*** By a certificate of a physician, psychiatrist or licensed psychologist stating that he has examined the child alleged to be a child with an emotional disturbance and has concluded that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; or

~~[2.]~~ ***(b)*** By a sworn written statement by the petitioner that:

~~[(a)]~~ ***(1)*** The petitioner has, based upon his personal observation of the child alleged to be a child with an emotional disturbance, probable cause to believe that the child has an emotional disturbance and, because of that condition, is likely to harm himself or others if allowed his liberty; and

~~[(b)]~~ ***(2)*** The child alleged to be a child with an emotional disturbance has refused to submit to examination or treatment by a physician, psychiatrist or licensed psychologist.

2. If a petition filed pursuant to this section is to continue the placement of the child after an emergency admission, the petition must be

filed not later than 5 days after the emergency admission or the child must be released.

Sec. 4. NRS 432B.6076 is hereby amended to read as follows:

432B.6076 1. Except as otherwise provided in NRS 432B.6077, if the court finds, after proceedings for the court-ordered admission of a child alleged to be a child with an emotional disturbance who is in the custody of an agency which provides child welfare services to a facility ~~[.]~~ ***, including, without limitation, an evidentiary hearing:***

(a) That there is not clear and convincing evidence that the child with respect to whom the hearing was held exhibits observable behavior such that he is likely to harm himself or others if allowed his liberty, the court shall enter its finding to that effect and the child must not be admitted to a facility.

(b) That there is clear and convincing evidence that the child with respect to whom the hearing was held is in need of treatment in a facility and is likely to harm himself or others if allowed his liberty, the court may order the admission of the child for the most appropriate course of treatment. The order of the court must be interlocutory and must not become final if, within 30 days after the admission, the child is unconditionally released from the facility pursuant to NRS 432B.6084.

2. Before issuing an order for admission or a renewal thereof, the court shall explore other alternative courses of treatment within the least restrictive appropriate environment as suggested by the evaluation team who evaluated the child, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the child.

Sec. 5. NRS 432B.6077 is hereby amended to read as follows:

432B.6077 1. An agency which provides child welfare services shall not place a child who is in the custody of the agency in a facility, other than under an emergency admission, unless the agency has petitioned the court for the court-ordered admission of the child to a facility pursuant to NRS 432B.6075.

2. If a petition for the court-ordered admission of a child filed pursuant to NRS 432B.6075 is accompanied by the information described in ***paragraph (b) of*** subsection ~~[2]~~ ***1*** of NRS 432B.6075, the court shall order a psychological evaluation of the child.

3. If a court which receives a petition filed pursuant to NRS 432B.6075 for the court-ordered admission to a facility of a child who is in the custody of an agency which provides child welfare services determines pursuant to subsection 2 of NRS 432B.6076 that the child could be treated effectively in a less restrictive appropriate environment than a facility, the court must order the placement of the child in a less restrictive appropriate environment. In making such a determination, the court may consider any information provided to the court, including, without limitation:

(a) Any information provided pursuant to subsection 4;

(b) Any suggestions of psychologists, psychiatrists or other physicians who have evaluated the child concerning the appropriate environment for the child; and

(c) Any suggestions of licensed clinical social workers or other professionals or any adult caretakers who have interacted with the child and have information concerning the appropriate environment for the child.

4. If a petition for the court-ordered admission of a child who is in the custody of an agency which provides child welfare services is filed pursuant to NRS 432B.6075:

(a) Any person, including, without limitation, the child, may oppose the petition for the court-ordered admission of the child by filing a written opposition with the court ~~[.]~~ ***or stating the opposition in court;*** and

(b) The agency which provides child welfare services must present information to the court concerning whether:

(1) A facility is the appropriate environment to provide treatment to the child; or

(2) A less restrictive appropriate environment would serve the needs of the child.

Sec. 6. NRS 432B.6078 is hereby amended to read as follows:

432B.6078 1. Not later than 5 days after a child who is in the custody of an agency which provides child welfare services has been admitted to a facility pursuant to NRS 432B.6076, the agency which provides child welfare services shall inform the child of his legal rights and the provisions of NRS 432B.607 to 432B.6085, inclusive, ***and section 1.3 of this act,*** 433.456 to 433.543, inclusive, and 433.545 to 433.551, inclusive, and chapters 433A and 433B of NRS and, if the child or the child's attorney desires, assist the child in requesting the court to authorize a second examination by an evaluation team that includes a physician, psychiatrist or licensed psychologist ***who are not employed by, connected to or otherwise affiliated with the facility*** other than a physician, psychiatrist or licensed psychologist who performed an original examination which authorized the court to order the admission of the child to the facility. ***A second examination must be conducted not later than 5 business days after the court authorizes the examination.***

2. If the court authorizes a second examination of the child, the examination must:

(a) Include, without limitation, an evaluation concerning whether the child should remain in the facility and a recommendation concerning the appropriate placement of the child which must be provided to the facility; and

(b) Be paid for by the governmental entity that is responsible for the agency which provides child welfare services, if such payment is not otherwise provided by the State Plan for Medicaid.

Sec. 7. NRS 432B.608 is hereby amended to read as follows:

432B.608 1. If the court issues an order for the admission to a facility of a child who is in the custody of an agency which provides child welfare services pursuant to NRS 432B.6076, the admission automatically expires at the end of 90 days if not terminated previously by the facility as provided for in subsection 2 of NRS 432B.6084.

2. At the end of the court-ordered period of treatment, the agency which provides child welfare services, the Division of Child and Family Services or any facility may petition to renew the admission of the child for additional periods not to exceed 60 days each.

3. For each renewal, the petition must set forth the specific reasons why further treatment in the facility would be in the best interests of the child ~~[.]~~ ***and the court shall apply the same standards when considering a petition to renew the admission of the child as were applied for the original petition for the court-ordered admission of the child.***

Sec. 8. NRS 432B.6081 is hereby amended to read as follows:

432B.6081 A facility which provides care, treatment or training to a child who is in the custody of an agency which provides child welfare services and who is admitted to the facility pursuant to NRS 432B.6076 shall develop a plan, in consultation with the child, for the continued care, treatment and training of the child upon discharge from the facility. The plan must:

1. Be developed not later than ~~[5]~~ ***10*** days after the child is admitted to the facility;

2. Be submitted to the court after each period of admission ordered by the court pursuant to NRS 432B.6076 in the manner set forth in NRS 432B.608; and

3. Include, without limitation:

(a) The anticipated date of discharge of the child from the facility;

(b) ~~[The criteria which must be satisfied before the child is discharged from the facility, as determined by the medical professional responsible for the care, treatment and training of the child in the facility;~~

~~(c)]~~ The name of any psychiatrist or psychologist who will provide care, treatment or training to the child after the child is discharged from the facility, if appropriate;

~~[(d)]~~ ***(c)*** A plan for any appropriate care, treatment or training for the child for at least 30 days after the child is discharged from the facility; and

~~[(e)]~~ ***(d)*** The suggested placement of the child after the child is discharged from the facility.

Sec. 9. (Deleted by amendment.)

Sec. 10. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a child who is in the custody of an agency which provides child welfare services is placed for adoption, the agency must provide the court which is conducting the adoption proceedings with a copy of any order for visitation with a sibling of the child that was issued pursuant to

NRS 432B.580 and the court must conduct a hearing to determine whether to include an order for visitation with a sibling in the decree of adoption.

2. Any interested party in the adoption, including, without limitation, the adoptive parent, the adoptive child, a sibling of the adoptive child, the agency which provides child welfare services or a licensed child-placing agency may petition the court to participate in the determination of whether to include an order of visitation with a sibling in the decree of adoption.

3. The sole consideration of the court in making a determination concerning visitation with a sibling pursuant to this section is the best interest of the child.

Sec. 11. NRS 433B.130 is hereby amended to read as follows:

433B.130 1. The Administrator shall:

(a) Administer, in accordance with the policies established by the Commission, the programs of the Division for the mental health of children.

(b) Appoint the administrative personnel necessary to operate the programs of the Division for the mental health of children. The Commission must approve the credentials, training and experience of deputy administrators and administrative officers appointed for this purpose.

(c) Delegate to the administrative officers the power to appoint medical, technical, clerical and operational staff necessary for the operation of any division facilities.

(d) ~~[Ensure that]~~ Establish appropriate policies ~~[are established concerning the prescribing, monitoring, use and distribution of psychotropic medication]~~ to ensure that children in division facilities have timely access to clinically appropriate psychotropic medication that are consistent with the policies established pursuant to section 1.5 of this act.

2. If the Administrator finds that it is necessary or desirable that any employee reside at a facility operated by the Division or receive meals at such a facility, perquisites granted or charges for services rendered to that person are at the discretion of the Governor.

3. The Administrator may accept children referred to the Division for treatment pursuant to the provisions of NRS 458.290 to 458.350, inclusive.

4. The Administrator may enter into agreements with the Administrator of the Division of Mental Health and Developmental Services of the Department for the care and treatment of clients of the Division of Child and Family Services at any facility operated by the Division of Mental Health and Developmental Services.

Sec. 12. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved the adoption of the amendment.

Remarks by Assemblywoman Smith.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 335.
Bill read third time.
Remarks by Assemblyman Anderson.
Roll call on Assembly Bill No. 335:
YEAS—40.
NAYS—Leslie.
EXCUSED—Parnell.
Assembly Bill No. 335 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 352.
Bill read third time.
Remarks by Assemblymen Mortenson and Segerblom.
Roll call on Assembly Bill No. 352:
YEAS—37.
NAYS—Cobb, Gustavson, Hambrick, McArthur—4.
EXCUSED—Parnell.
Assembly Bill No. 352 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 380.
Bill read third time.
Remarks by Assemblyman Hambrick.
Roll call on Assembly Bill No. 380:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.
Assembly Bill No. 380 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 388.
Bill read third time.
Remarks by Assemblyman Anderson.
Roll call on Assembly Bill No. 388:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.
Assembly Bill No. 388 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 402.
Bill read third time.
Remarks by Assemblymen Bobzien and Denis.

Potential conflict of interest declared by Assemblyman Denis.

Roll call on Assembly Bill No. 402:

YEAS—33.

NAYS—Christensen, Cobb, Gansert, Goicoechea, Gustavson, Hambrick, Hardy, Settelmeyer—8.

EXCUSED—Parnell.

Assembly Bill No. 402 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Arberry moved that Assembly Bill No. 430 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 441.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 441:

YEAS—40.

NAYS—Stewart.

EXCUSED—Parnell.

Assembly Bill No. 441 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 476.

Bill read third time.

Roll call on Assembly Bill No. 476:

YEAS—40.

NAYS—Hardy.

EXCUSED—Parnell.

Assembly Bill No. 476 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 495.

Bill read third time.

Remarks by Assemblymen Segerblom, Cobb, Horne, Anderson, Hardy, Leslie, Settelmeyer, Oceguera, and Stewart.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN SEGERBLOM:

Thank you, Madam Speaker. Assembly Bill 495 addresses the limited instances when there's gross negligence in medical malpractice. Currently, there's a $350,000 cap on all malpractice awards. This exempts that for gross malpractice, which is for very exceptional cases. It also extends the statute of limitations for malpractice from three years after the date of injury to four years or from one year after the discovery to two years after its discovery. This addresses the

issues that arose in southern Nevada where really abusive conduct took place and there was no remedy for the injured victims. Thank you.

ASSEMBLYMAN COBB:

Thank you, Madam Speaker. I rise in opposition of Assembly Bill 495. This boils down to two, separate issues. One is the issue of punishment versus proper recovery. There was not a single person on the Judiciary Committee, who considered this bill, who did not believe that people should be properly compensated for medical malpractice. The problem is that we already have full recovery for economic damages. The reason why we put in place the cap on noneconomic damages—the movement behind it—was so that we could keep our doctors here in Nevada, which was the name of the movement. The concept is that you are going to try to punish bad doctors by having their insurance companies pay higher noneconomic damages. However, you are going to end up casting too wide of a net, and you are going to take in all the good doctors as well. What's going to happen is that insurance premiums are going to increase, as we saw in the past. The good doctors are going to start getting priced out of our market, as well. Of course, we are going to pass that cost along to average Nevadans who are going to have less access to health care. I do not think this is the proper way to punish bad doctors, by including all the good doctors in there as well. I think that this is going to cause problems for our healthcare system here in Nevada. I urge a "no" vote. Thank you.

ASSEMBLYMAN HORNE:

Thank you, Madam Speaker. I rise in support of Assembly Bill 495. Currently under our law, we have bad doctors that are protected by our existing law. I do not think anyone had that intention in mind when we passed previous legislation. I want to read to you. When we talk about gross negligence, we mean: "A conscious indifference to the consequences which may result from gross negligence and a disregard for and indifference to safety and welfare to the patient." This standard that a doctor has to reach is enormous. This doctor is completely and totally not paying attention, not having his patient's welfare at hand when he achieves this. Right now, we have doctors who are protected by our law, and they shouldn't be. During the committee hearing, we heard people say, "Well we should prosecute them criminally." I do not disagree with that. But should our laws also protect the criminals from doing this? I do not think so. I do not think that's what anyone had in mind.

I remember the time when doctors were difficult to find. That is when my wife and I had to drive from Summerlin all the way out to Henderson to have my son Henry delivered. That is where we found the doctor we chose. I get it. But I believe that sometimes when you pass legislation for protection, sometimes it gets too stifling and it has an effect that was not intended. This is that case. Now we have legislation and laws in place where we can have bad doctors come in, operate, perform, do absolutely horrible things, and not receive any punishment for that. Now, you have to ask yourself if the standard I read to you is typical of our doctors in the State of Nevada. I don't think it is. I do not think anyone believes it is. I believe that a jury, when presented with these types of facts, is smart enough to know what gross negligence is and what it isn't. Everyone was talking about how 60 percent of the voters approved of these restrictions and this cap. However, what doesn't make sense is that they appreciate the 60 percent of the voters saying this but yet they do not trust a jury to understand what gross negligence is. I think we can trust the jury to know what gross negligence is, and they will do the right thing. This is a good bill, and I urge your support.

ASSEMBLYMAN ANDERSON:

Thank you, Madam Speaker. I believe that the preceding speaker took care of most of the points I was going to raise. However, I think it is important for us to recognize, when we are talking about gross negligence, that we are talking about the absolute indifference to the normal practices established within the medical groups. That is what happened in southern Nevada. I think there were two big questions that came in front of us in the last couple of sessions relative to this issue. One is the huge cost of insurance for doctors to cover themselves. One would have expected then, having seen the initiative pass, that there would have been a dramatic decline in rates and a greater number of insurance offerings. That is not true. It came only because doctors reformulated themselves, along with the insurance companies, to take care of their problems.

That is the reason why there were additional carriers in this area. Have we seen a huge decline in their rates? No. In fact, if anything, for those outside of the Clark County area, their rates actually went up to the same level. So there was one rate throughout the state where before there was a divided rate. It has not helped all the doctors as anticipated. The reality is that the patient who is harmed by a physician, where the physician knows what he is doing and chooses to make a profit rather than look out for the best interests of his patient—that is what we are looking for. With this bill, we also extend the statute of limitations, which I think makes it a very important part of the opportunity, recognizing the insidious nature of some of these health problems, to be diagnosed later on and just giving the people of the State of Nevada the opportunity to make sure if they cannot be returned to full health, at least there is an opportunity for their families in some way to be compensated.

ASSEMBLYMAN HARDY:

Thank you, Madam Speaker. When we look at the criminal courts and the regulatory boards that should be involved with the punishing of bad doctors, I think there's a difference between that process and the process of casting that wider net, as my colleague from the north was talking about. When we look at the critical access to care, we have a challenge of getting enough doctors in Nevada. If we allow the good doctors to not apply to come to Nevada, then we decrease the level of our care. So we have other things that we are trying to do in order to be able to assure we have quality care in Nevada. I do not think that this will actually do anything for increasing the quality of care as much as we need to go through the appropriate regulations, the appropriate statutes, whether they are civil or criminal. I do not think this gets there. I think it would be detrimental to the access of care. Thank you, Madam Speaker.

ASSEMBLYWOMAN LESLIE:

Thank you, Madam Speaker. I rise in support of Assembly Bill 495. While I agree with my colleague from Boulder City that we need access to health care, I believe we also need access to justice when someone has been harmed by a medical error. During the past interim, as the chair of the Legislative Committee on Health Care, we were deeply enmeshed in the hepatitis C tragedy in Las Vegas. Many people contracted that disease by the direct bad action of a doctor. We had victims come and testify before our committee and tell us how they were not only harmed medically, but now, because of this law, the existing law, they had no access to justice. We have to fix that. I think this bill is a reasonable alternative, I think the committee did a great job settling on gross negligence, and I think it's an appropriate bill. I urge your support.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Speaker. I rise to oppose Assembly Bill 495. On Friday I was sitting here watching the screen, and for some reason the screen started to spin. I ended up going down to the ER, and what I had was an inner ear infection that gave me vertigo really bad. It was interesting because all the doctors just wanted to talk about how this bill will adversely affect them. What they are saying is that at a time when they are trying to increase access to health care, we bring this bill forward. In that respect, I will be voting no against this bill because of what those doctors said and also because I will stand behind my voters, who voted 2 to 1 for the Keep Our Doctors in Nevada initiative. Thank you.

ASSEMBLYMAN OCEGUERA:

Thank you, Madam Speaker. I rise in support of Assembly Bill 495. For those of you who were here in 2003, you remember this battle on medical malpractice, and it was one that was hard fought, if you will. There were tears from both sides, and there were compelling arguments from both sides. But the standard that we agreed on in that session—and the standard that I think all sides agreed on—was the gross negligence standard. I don't think that standard makes a bigger net; it makes a smaller net. It's only those doctors who are the bad doctors who are affected by that. Between the time we had that special session in 2002 and the time the initiative was passed, insurance companies were coming back to Nevada. The rates were going down. And then the initiative petition occurred. Those folks, with the initiative petition, basically are having complete immunity. They have $350,000, no matter what they do. It just doesn't make sense to me. Also, on the statute of limitations question with the hepatitis C situation in

Las Vegas that my colleague talked about, they're up against their statute of limitations right now. So that's still fresh in your mind. That is still happening. Some people are still just finding out, but the statute of limitations is up and they're basically out of luck. Those are the reasons I rise in support of this, Madam Speaker, and I urge your support.

ASSEMBLYMAN STEWART:

Thank you, Madam Speaker. I have a number of doctors in my district saying they are going to have to go to Bullhead City to practice medicine if this goes into effect. Thank you. I will be voting no.

Roll call on Assembly Bill No. 495:

YEAS—26.

NAYS—Arberry, Carpenter, Christensen, Cobb, Gansert, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Munford, Settelmeyer, Stewart, Woodbury—15.

EXCUSED—Parnell.

Assembly Bill No. 495 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that Assembly Bill No. 502 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that Senate Bills Nos. 65 and 109; Senate Joint Resolution No. 9 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 140, 144, 176 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Corrections, Parole, and Probation, to which were referred Assembly Bills Nos. 81, 325, 474, 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 Corrections, Parole, and Probation, to which was referred Assembly Bill No. 179, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

WILLIAM C. HORNE, *Chairman*

Madam Speaker:

Your Committee on Education, to which was referred Assembly Bill No. 489, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BONNIE PARNELL, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 350, 361, 471, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 290, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 135, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MORSE ARBERRY JR., *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 81, 135, 140, 144, 176, 179, 290, 325, 350, 361, 471, 474, and 489 just reported out of committee, be placed on the Second Reading File.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 541—AN ACT relating to taxation; imposing an additional tax on the gross receipts from the rental of transient lodging in certain counties; providing for the use of the proceeds; and providing other matters properly relating thereto.

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

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Senate Bill No. 73.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 132.

Assemblyman Oceguera moved that the bill be referred to the Committee on Natural Resources, Agriculture, and Mining.

Motion carried.

Senate Bill No. 137.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 183.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 186.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 229.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 239.

Assemblyman Oceguera moved that the bill be referred to the Committee on Government Affairs.

Motion carried.

Senate Bill No. 261.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 278.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 290.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 305.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 312.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 338.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 340.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 343.

Assemblyman Oceguera moved that the bill be referred to the Committee on Health and Human Services.

Motion carried.

Senate Bill No. 353.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 372.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

Senate Bill No. 377.

Assemblyman Oceguera moved that the bill be referred to the Committee on Transportation.

Motion carried.

Senate Bill No. 383.

Assemblyman Oceguera moved that the bill be referred to the Committee on Judiciary.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 6.

Bill read second time.

The following amendment was proposed by the Committee on Health and Human Services:

Amendment No. 523.

AN ACT relating to mental health; ~~[requiring the immediate]~~ **authorizing the** release of certain persons admitted to mental health facilities or hospitals under the procedures for emergency admission; revising provisions relating to the process for emergency admissions of persons alleged to be persons with mental illness to certain mental health facilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prescribes the procedures for emergency admission to a mental health facility or hospital. (NRS 433A.145, 433A.150, 433A.160) Under existing law, a person with mental illness who voluntarily admits himself and whose status is changed to an emergency admission must not be detained more than 48 hours after the change in status is made. (NRS 433A.145) Under existing law, a person who is alleged to be a person with mental illness must be released within 72 hours after an emergency admission. (NRS 433A.150) **Sections 3 and 4 of this bill provide that a facility may continue to detain a person if a petition is filed by the end of**

the business day on which the 48 hours or 72 hours, whichever is applicable, expires. Sections 1, 3 and 4 of this bill ~~[require the immediate]~~ **authorize the** release of a person who is admitted under an emergency admission if ~~[the administrative officer]~~ **a licensed physician on the medical staff** of the mental health facility or hospital ~~[receives a certificate signed by a psychiatrist, licensed psychologist, licensed physician, licensed clinical social worker or a registered nurse with certain qualifications]~~ **signs a certificate** stating that the ~~[professional]~~ **physician** has examined the person and that the person ~~[should be released.]~~ **is not a person with mental illness.**

Section 5 of this bill changes the time before which a person alleged to be a person with a mental illness must be examined by one of certain enumerated medical professionals from before the person may be transported to before the person may be admitted to a public or private mental health facility under an emergency admission. **Section 5 also requires a petition to be filed with a district court if a person with a mental illness must be held for more than 72 hours for the treatment of a medical condition, other than a psychiatric illness, before being admitted to a mental health facility. (NRS 433A.165)**

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

Section 1. Chapter 433A of NRS is hereby amended by adding thereto a new section to read as follows:

~~*[The administrative officer]*~~ ***A licensed physician on the medical staff of a facility operated by the Division or of any other public or private mental health facility or hospital*** ~~*[shall]*~~ ***may release a person admitted pursuant to NRS 433A.160 upon*** ~~*[receipt]*~~ ***completion of a certificate which meets the requirements of NRS 433A.180 signed by a*** ~~*[psychiatrist, licensed psychologist,]*~~ ***licensed physician*** ~~*[, clinical social worker licensed pursuant to chapter 641B of NRS or registered nurse who holds a master's degree or doctoral degree in the field of psychiatric nursing]*~~ ***on the medical staff of the facility or hospital stating that he has personally observed and examined the person and that he has concluded that the person*** ~~*[should be released from that facility or hospital.]*~~ ***is not a person with a mental illness.***

Sec. 2. NRS 433A.115 is hereby amended to read as follows:

433A.115 1. As used in NRS 433A.115 to 433A.330, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, "person with mental illness" means any person whose capacity to exercise self-control, judgment and discretion in the conduct of his affairs and social relations or to care for his personal needs is diminished, as a result of a mental illness, to the extent that he presents a clear and present danger of harm to himself or others, but does not include any person in whom that capacity is diminished by epilepsy, mental retardation, ~~[Alzheimer's disease,]~~ ***dementia, delirium,*** brief periods of intoxication caused by alcohol or drugs, or dependence upon

or addiction to alcohol or drugs, unless a mental illness that can be diagnosed is also present which contributes to the diminished capacity of the person.

2. A person presents a clear and present danger of harm to himself if, within the ~~[next]~~ ***immediately*** preceding 30 days, he has, as a result of a mental illness:

(a) Acted in a manner from which it may reasonably be inferred that, without the care, supervision or continued assistance of others, he will be unable to satisfy his need for nourishment, personal or medical care, shelter, self-protection or safety, and if there exists a reasonable probability that his death, serious bodily injury or physical debilitation will occur within the next following 30 days unless he is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, ***and section 1 of this act*** and adequate treatment is provided to him;

(b) Attempted or threatened to commit suicide or committed acts in furtherance of a threat to commit suicide, and if there exists a reasonable probability that he will commit suicide unless he is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, ***and section 1 of this act*** and adequate treatment is provided to him; or

(c) Mutilated himself, attempted or threatened to mutilate himself or committed acts in furtherance of a threat to mutilate himself, and if there exists a reasonable probability that he will mutilate himself unless he is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, ***and section 1 of this act*** and adequate treatment is provided to him.

3. A person presents a clear and present danger of harm to others if, within the ~~[next]~~ ***immediately*** preceding 30 days, he has, as a result of a mental illness, inflicted or attempted to inflict serious bodily harm on any other person, or made threats to inflict harm and committed acts in furtherance of those threats, and if there exists a reasonable probability that he will do so again unless he is admitted to a mental health facility pursuant to the provisions of NRS 433A.115 to 433A.330, inclusive, ***and section 1 of this act*** and adequate treatment is provided to him.

Sec. 3. NRS 433A.145 is hereby amended to read as follows:

433A.145 1. If a person with mental illness is admitted to a public or private mental health facility or hospital as a voluntary client, the facility or hospital shall not change the status of the person to an emergency admission unless the hospital or facility receives, before the change in status is made, an application for an emergency admission pursuant to NRS 433A.160 and the certificate of a psychiatrist, psychologist or physician pursuant to NRS 433A.170.

2. A person whose status is changed pursuant to subsection 1 must not ~~*[:*~~ ~~*(a) Not]*~~ be detained in excess of 48 hours after the change in status is made, unless ~~[within that period]~~ ***, before the close of the business day on***

which the 48 hours expires, a written petition is filed with the clerk of the district court pursuant to NRS 433A.200.

~~[(b) Be released immediately upon receipt by the administrative officer of the mental health facility or hospital of a certificate pursuant to section 1 of this act.]~~

3. If the period specified in ~~[paragraph (a) of]~~ subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

Sec. 4. NRS 433A.150 is hereby amended to read as follows:

433A.150 1. Any person alleged to be a person with mental illness may, upon application pursuant to NRS 433A.160 and subject to the provisions of subsection 2, be detained in a public or private mental health facility or hospital under an emergency admission for evaluation, observation and treatment.

2. Except as otherwise provided in subsection 3, a person detained pursuant to subsection 1 must be released within ~~[:~~

~~(a) Within]~~ 72 hours, including weekends and holidays, after the ***certificate required pursuant to NRS 433A.170 and the*** examination required by paragraph (a) of subsection 1 of NRS 433A.165 ~~[has]~~ ***have*** been completed, if such an examination is required, or within 72 hours, including weekends and holidays, after the person arrives at the mental health facility or hospital, if an examination is not required by paragraph (a) of subsection 1 of NRS 433A.165, unless ~~[within that period]~~ ***, before the close of the business day on which the 72 hours expires,*** a written petition for an involuntary court-ordered admission is filed with the clerk of the district court pursuant to NRS 433A.200, including, without limitation, the documents required pursuant to NRS 433A.210, or the status of the person is changed to a voluntary admission . ~~[; or~~

~~(b) Immediately upon receipt by the administrative officer of the mental health facility or hospital of a certificate pursuant to section 1 of this act unless the status of the person is changed to a voluntary admission.]~~

3. If the period specified in ~~[paragraph (a) of]~~ subsection 2 expires on a day on which the office of the clerk of the district court is not open, the written petition must be filed on or before the close of the business day next following the expiration of that period.

Sec. 5. NRS 433A.165 is hereby amended to read as follows:

433A.165 1. Before a person alleged to be a person with mental illness may be ~~[transported]~~ ***admitted*** to a public or private mental health facility pursuant to NRS 433A.160, the person must:

(a) First be examined by a licensed physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS or an advanced practitioner of nursing ***at any location where such a physician, physician assistant or advanced practitioner of nursing is authorized to conduct such an***

examination to determine whether the person has a medical problem, other than a psychiatric problem, which requires immediate treatment; and

(b) If such treatment is required, be admitted for the appropriate medical care:

(1) To a hospital if the person is in need of emergency services or care; or

(2) To another appropriate medical facility if the person is not in need of emergency services or care.

2. ***If a person with a mental illness has a medical problem in addition to a psychiatric problem which requires medical treatment that requires more than 72 hours to complete, the licensed physician or physician assistant licensed pursuant to chapter 630 or 633 of NRS or an advanced practitioner of nursing who examined the person must:***

(a) On the first business day after determining that such medical treatment is necessary file with the clerk of the district court a written petition to admit the person to a public or private mental health facility pursuant to NRS 433A.160 after the medical treatment has been completed. The petition must:

(1) Include, without limitation, the medical condition of the person and the purpose for continuing the medical treatment of the person; and

(2) Be accompanied by a copy of the application for the emergency admission of the person required pursuant to NRS 433A.160 and the certificate required pursuant to NRS 433A.170.

(b) Seven days after filing a petition pursuant to paragraph (a) and every 7 days thereafter, file with the clerk of the district court an update on the medical condition and treatment of the person.

3. The examination and any transfer of the person from a facility when the person has an emergency medical condition and has not been stabilized must be conducted in compliance with:

(a) The requirements of 42 U.S.C. § 1395dd and any regulations adopted pursuant thereto, and must involve a person authorized pursuant to federal law to conduct such an examination or certify such a transfer; and

(b) The provisions of NRS 439B.410.

~~[3.]~~ ***4.*** The cost of the examination must be paid by the county in which the person alleged to be a person with mental illness resides if services are provided at a county hospital located in that county or a hospital or other medical facility designated by that county, unless the cost is voluntarily paid by the person alleged to be a person with mental illness or, on his behalf, by his insurer or by a state or federal program of medical assistance.

~~[4.]~~ ***5.*** The county may recover all or any part of the expenses paid by it, in a civil action against:

(a) The person whose expenses were paid;

(b) The estate of that person; or

(c) A responsible relative as prescribed in NRS 433A.610, to the extent that financial ability is found to exist.

~~[5.]~~ ***6.*** The cost of treatment, including hospitalization, for ~~[an]~~ ***a person who is*** indigent must be paid pursuant to NRS 428.010 by the county in which the person alleged to be a person with mental illness resides.

~~[6.]~~ ***7. The provisions of this section do not require the Division to provide examinations required pursuant to subsection 1 at a Division facility if the Division does not have the:***

(a) Appropriate staffing levels of physicians, physician assistants, advanced practitioners of nursing or other appropriate staff available at the facility as the Division determines is necessary to provide such examinations; or

(b) Appropriate medical laboratories as the Division determines is necessary to provide such examinations.

8. The Division shall adopt regulations to carry out the provisions of this section, including, without limitation, regulations that:

(a) Define "emergency services or care" as that term is used in this section; and

(b) Prescribe the type of medical facility that a person may be admitted to pursuant to subparagraph (2) of paragraph (b) of subsection 1.

~~[7.]~~ ***9.*** As used in this section, "medical facility" has the meaning ascribed to it in NRS 449.0151.

Sec. 6. NRS 433A.180 is hereby amended to read as follows:

433A.180 ~~[No]~~

1. An application or certificate authorized under ***subsection 1 of*** NRS 433A.160 or ***NRS*** 433A.170 ~~[may]~~ ***or section 1 of this act must not*** be considered if made by a psychiatrist, psychologist ~~*[, marriage and family therapist, social worker, registered nurse]*~~ or physician who is related by blood or marriage ***within the first degree of consanguinity or affinity*** to the person alleged to be a person with mental illness, or who is financially interested in the facility in which the person alleged to be a person with mental illness is to be detained. ~~[No]~~

2. An application or certificate of any examining person authorized under NRS 433A.170 ~~[may]~~ ***must not*** be considered unless it is based on personal observation and examination of the person alleged to be a person with mental illness made by such examining person not more than 72 hours prior to the making of the application or certificate. The certificate ~~[shall]~~ ***required pursuant to NRS 433A.170 must*** set forth in detail the facts and reasons on which the examining person based his opinions and conclusions.

3. A certificate authorized pursuant to section 1 of this act must not be considered unless it is based on personal observation and examination of the person alleged to be a person with mental illness made by ~~*[such examining person.]*~~ ***the examining physician. The certificate authorized pursuant to section 1 of this act must set forth in detail the facts and reasons on which the examining*** ~~*[person]*~~ ***physician based his opinions and conclusions.***

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 40.

Bill read second time.

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

Amendment No. 126.

AN ACT relating to school facilities; revising provisions governing the review and approval of plans for the construction or alteration of school buildings in certain school districts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill removes the requirement that a school district in a county whose population is 400,000 or more (currently Clark County) submit plans, designs and specifications **for new school buildings and facilities and for additions and alterations** to the State Public Works Board and requires such a school district to ~~[obtain the review and approval of the county building department or other appropriate local building department in the county in the same manner as all other counties.]~~ **establish a building department for the school district.**

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

Section 1. NRS 393.110 is hereby amended to read as follows:

393.110 1. Each school district shall, in the design, construction and alteration of school buildings and facilities, comply with the applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. The requirements of this subsection are not satisfied if a school district complies solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

2. In a ~~*[each]*~~ county ~~*[:]*~~ whose population is 400,000 or more:

(a) ~~[Except as otherwise provided in paragraph (c), unless standard plans, designs and specifications are to be used as provided in NRS 385.125, before letting any contract or contracts for the erection of any new school building, the board of trustees of the county school district shall submit the plans, designs and specifications to, and obtain the written approval of the plans, designs and specifications by, the State Public Works Board. The State Public Works Board shall review the plans, designs and specifications and make any recommendations as expeditiously as practicable. The State Public~~

~~Works Board is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for the payment of any costs incurred by the State Public Works Board in securing the approval of qualified architects or engineers of the plans, designs and specifications submitted by the board of trustees in compliance with the provisions of this paragraph.~~] ***The board of trustees of the school district shall establish a building department for the school district.***

(b) [~~Except as otherwise provided in paragraph (c), before letting any contract or contracts for any addition to or alteration of an existing school building which involves structural systems, or exiting, sanitary or fire protection facilities, the board of trustees of the county school district shall submit the plans, designs and specifications to, and obtain the written approval of the plans, designs and specifications by, the State Public Works Board. The State Public Works Board shall review the plans, designs and specifications and make any recommendations as expeditiously as practicable. The State Public Works Board is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for the payment of any costs incurred by the State Public Works Board in securing the approval of qualified architects or engineers of the plans, designs and specifications submitted by the board of trustees in compliance with the provisions of this paragraph.~~] ***Except as otherwise provided in NRS 477.030, the board of trustees of the school district shall regulate all matters relating to the construction, maintenance and safety of buildings, facilities, structures and property of the school district.***

(c) [~~The State Public Works Board may enter into an agreement with the appropriate building department of a county or city to review plans, designs and specifications of a school district pursuant to paragraph (a) or (b). If the State Public Works Board enters into such an agreement, the board of trustees of the school district shall submit a copy of its plans, designs and specifications for any project to which paragraph (a) or (b) applies to the building department before commencement of the project for the approval of that building department. The building department shall review the plans, designs and specifications and provide responsive comment as expeditiously as practicable. The approval of the State Fire Marshal is not required for any plans, designs and specifications reviewed by a building department pursuant to this paragraph. A building department that has entered into an agreement pursuant to this paragraph is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for the review conducted pursuant to this paragraph.~~] ***Except as otherwise provided in NRS 477.030, the board of trustees of the school district shall adopt any building, electrical or safety codes as necessary to carry out the provisions of this subsection.***

(d) The board of trustees of the school district shall ensure that the building department established by the board of trustees reviews the plans,

designs and specifications for the erection of new school buildings and for the addition to or alteration of existing school buildings and facilities.

(e) The building department established by the board of trustees shall, in accordance with subsection 4, conduct a review of plans, designs and specifications for the erection of new school buildings and for the addition to or alteration of existing school buildings and facilities.

(f) The provisions of NRS 278.585 do not apply to the school district in its regulation of buildings, facilities, structures and property of the school district.

3. In a county whose population is less than 400,000:

(a) Except as otherwise provided in paragraph (b), unless standard plans, designs and specifications are to be used as provided in NRS 385.125, before letting any contract or contracts for the erection of any new school building or for any addition to or alteration of an existing school building, the board of trustees of the county school district shall submit the plans, designs and specifications to, and obtain written approval of the plans, designs and specifications by, the building department of the county or ~~[another]~~ ***other appropriate*** local building department in the county, ~~[as applicable,]~~ and all other local agencies or departments whose approval is necessary for the issuance of the appropriate permit. The approval of the State Fire Marshal is not required for any plans, designs and specifications reviewed by a building department pursuant to this paragraph.

(b) If there is no county building department or other ***appropriate*** local building department in the county in which the school district is located, the board of trustees of the school district shall enter into an agreement with the State Public Works Board, a private certificate holder or a local building department in another county to obtain the required reviews of the plans, designs and specifications and to have the required inspections conducted. The approval of the State Fire Marshal is not required for any plans, designs and specifications reviewed by a private certificate holder or ~~[local]~~ building department pursuant to this paragraph.

(c) A permit for construction must be issued before the school district commences construction.

(d) The county building department or other ***appropriate*** local building department, the State Public Works Board or the private certificate holder, as applicable, shall conduct inspections of all work to determine compliance with the approved plans, designs and specifications. An inspection of the work by the State Fire Marshal is not required if the work is inspected by the private certificate holder or ~~[local]~~ building department.

(e) A department, agency, private certificate holder or the State Public Works Board is authorized to charge and collect, and the board of trustees of the county school district is authorized to pay, a reasonable fee for:

(1) Review of the plans, designs or specifications as required by this subsection; or

(2) The inspections conducted pursuant to this subsection.

4. ~~[3.]~~ In conducting reviews pursuant to this section, the State Public Works Board, building department or private certificate holder, as applicable, shall verify that the plans, designs and specifications comply with:

(a) The applicable requirements of the relevant codes adopted by this State, including, without limitation, the applicable requirements of any relevant codes and regulations adopted by the State Fire Marshal;

(b) The applicable requirements of the relevant codes adopted by the local authority having jurisdiction; and

(c) All applicable requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., ~~[inclusive,]~~ and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations. The requirements of this subsection are not satisfied if the plans, designs and specifications comply solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

5. ~~[4.]~~ No contract for any of the purposes specified in this section made by a board of trustees of a school district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to or altering any school building in contravention of this section.

6. ~~[5.]~~ As used in this section, "private certificate holder" means a person who, as applicable, holds a valid certification issued by the International Code Council or its successor:

(a) To review plans, designs and specifications for the erection of, addition to or alteration of a school building;

(b) To inspect work to ensure that the erection of, addition to or alteration of a school building is carried out in conformance with the relevant plans, designs and specifications; or

(c) To perform the activities described in paragraphs (a) and (b).

Sec. 2. **NRS 278.585 is hereby amended to read as follows:**

278.585 ~~[All]~~ ***Except as otherwise provided in NRS 393.110, all*** persons and political subdivisions shall comply with the appropriate city or county building code.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 74.

Bill read second time.

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

Amendment No. 43.

SUMMARY—Revises provisions concerning ~~[the presentation of a]~~ **tentative maps and** final ~~[map]~~ **maps** of certain subdivisions of land. (BDR 22-472)

AN ACT relating to land use planning; revising provisions ~~[governing the presentation of a]~~ **concerning tentative maps and** final ~~[map]~~ **maps** of certain subdivisions of land; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prescribes certain requirements for the proposed dividing of land into five or more units for the purpose of transfer or development, unless otherwise exempted. (NRS 278.320-278.460) **The initial action in the process of dividing such land is the submission of a tentative map of the proposed subdivision, and the concluding action is the recordation of an approved final map. (NRS 278.330, 278.460) Existing law establishes deadlines for the appropriate planning authority and various other affected governmental entities to act or report on such a tentative or final map. A subdivider and the appropriate planning authority can agree to extend those deadlines. (NRS 278.350) Section 1 of this act provides that if a subdivider enters into such an agreement covering a portion of an approved tentative map, no requirements other than those imposed on each of the final maps in a series of final maps may be placed on a map when the agreement is entered into, unless the requirement is directly attributable to a change in applicable laws which affect the public health, safety or welfare.**

Under existing law, a subdivider whose tentative map of ~~[such]~~ a proposed subdivision has been approved by the appropriate planning authority is required to present a final map covering the entire subdivision or the first of a series of successive final maps covering portions of the subdivision within 2 years after the approval of his tentative map, with certain exceptions, or proceedings concerning the subdivision are terminated. (NRS 278.360) ~~[This]~~ **Section 2 of this** bill extends the deadline for submission of either type of final map to 4 years after approval of the tentative map. ~~[As an alternative to this 4-year period, this bill also authorizes a city or county to adopt an ordinance which requires the planning authority to establish the period for submission of such a final map for each subdivision for which a tentative map has been approved. Such a period is required to be established based on consideration of specific criteria set forth in the ordinance relating to the public health, safety and welfare and may not be less than 2 years or more than 4 years after approval of the subdivider's tentative map.]~~

Under existing law, if a subdivider is presenting a series of final maps, each successive map is required to be presented within 1 year after the previous final map in the series was recorded, unless the planning authority grants an extension of not more than 1 additional year. The planning authority is prohibited from imposing any additional requirements on a successive map for which an extension is granted unless the requirement is

directly attributable to a change in the applicable laws which affect the public health, safety or welfare. (NRS 278.360) ~~[This bill]~~ **Section 2** extends the deadline for the presentation of a successive final map to 2 years after recordation of the previous final map in the series and extends the period for which an extension of that deadline may be granted to 2 additional years. ~~[This bill also clarifies that a change in a local ordinance which affects the public health, safety or welfare allows a planning authority, in the course of granting an extension, to impose an additional requirement on a final map in a series of final maps.]~~

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

Section 1. **NRS 278.350 is hereby amended to read as follows:**

278.350 Unless a longer time is provided in an agreement entered into pursuant to NRS 278.0201:

1. The time limit for acting and reporting on a tentative or final map may be extended by mutual consent of the subdivider and the governing body or planning commission, as the case may be.

2. If no action is taken within the time limits set forth in NRS 278.010 to 278.630, inclusive, a tentative map as filed shall be deemed to be approved, and the clerk of the governing body, or the planning commission if it has been authorized to take final action, shall certify the map as approved.

3. The time limits set forth in NRS 278.010 to 278.630, inclusive, for tentative and final maps are suspended for a period, not to exceed 1 year, during which this State or the Federal Government takes any action to protect the environment or an endangered species which prohibits, stops or delays the processing of a tentative map or the development, processing or recordation of a final map.

4. If the subdivider enters into an agreement pursuant to subsection 1 covering a portion of an approved tentative map, no requirements other than those imposed on each of the final maps in a series of final maps may be placed on a map when the agreement is entered into unless the requirement is directly attributable to a change in applicable laws which affects the public health, safety or welfare.

~~[Section 1.]~~ ***Sec. 2.*** NRS 278.360 is hereby amended to read as follows:

278.360 1. Unless a longer time is provided in an agreement entered into pursuant to NRS 278.0201 ~~[,]~~ ***or 278.350:***

(a) Unless the time is extended , ~~*for a different period is established pursuant to subsection 2,*~~ the subdivider shall present to the governing body, or the planning commission or the director of planning or other authorized person or agency if authorized to take final action by the governing body, within ~~[2]~~ ***4*** years after the approval of a tentative map:

(1) A final map, prepared in accordance with the tentative map, for the entire area for which a tentative map has been approved; or

(2) The first of a series of final maps covering a portion of the approved tentative map. If the subdivider elects to present a successive map in a series of final maps, each covering a portion of the approved tentative map, the subdivider shall present to the governing body, or the planning commission or the director of planning or other authorized person or agency if authorized to take final action by the governing body, on or before the ***second*** anniversary of the date on which the subdivider recorded the first in the series of final maps:

(I) A final map, prepared in accordance with the tentative map, for the entire area for which the tentative map has been approved; or

(II) The next final map in the series of final maps covering a portion of the approved tentative map.

(b) If the subdivider fails to comply with the provisions of paragraph (a), all proceedings concerning the subdivision are terminated.

(c) The governing body or planning commission may grant an extension of not more than ~~[~~1 year~~]~~ ***2 years*** for the presentation of any final map after the ~~[~~1 year~~]~~ ***2-year*** period for presenting a successive final map has expired.

2. ~~*[A governing body may adopt an ordinance that requires the governing body, or the planning commission or the director of planning or other authorized person or agency if authorized to take final action by the governing body, to establish the period within which each subdivider whose tentative map has been approved must comply with the provisions of paragraph (a) of subsection 1. Each such period:*~~

~~*(a) Must be established based on consideration of criteria prescribed in the ordinance relating to the protection of the public health, safety and welfare.*~~

~~*(b) May not be less than 2 years or more than 4 years after the approval of the subdivider's tentative map.*~~

~~*3.]*~~ If the subdivider is presenting in a timely manner a series of final maps, each covering a portion of the approved tentative map, no requirements other than those imposed on each of the final maps in the series may be placed on the map when an extension of time is granted unless the requirement is directly attributable to a change in applicable laws ~~*[,*~~ ~~*including, without limitation, local ordinances,]*~~ which affect the public health, safety or welfare.

~~**[Sec. 2.]**~~ ***Sec. 3.*** **1.** This act becomes effective upon passage and approval.

2. Section 2 of this act expires by limitation on June 30, 2013.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 84.

Bill read second time.

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

Amendment No. 430.

AN ACT relating to unemployment compensation; ~~[establishing]~~ **revising** provisions for the collection of benefits required to be repaid to the Employment Security Division of the Department of Employment, Training and Rehabilitation; establishing a penalty for fraudulently obtaining unemployment benefits under certain circumstances; revising provisions relating to the authorized use of money in the Employment Security Fund by the Administrator of the Division; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Sections 2-8 of this bill establish provisions for the repayment and collection of unemployment compensation benefits that were fraudulently obtained. Section 2 requires the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to mail a notice to a person's employer to inform the employer of his duties to withhold the person's income under certain circumstances. Section 3 requires the Administrator to mail a notice to the person who is subject to the withholding of income for the repayment of benefits. Section 4 establishes an employer's duties to withhold income upon receipt of a notice to withhold income that is issued by the Administrator. Section 5 provides that a notice to withhold income which is sent to an employer is binding upon that employer and authorizes the employer to deduct $3 from the amount paid to the employee each time a withholding is made as reimbursement for any costs associated with making the withholding. Section 6 provides that the Administrator may apply for and the court may issue an order directing an employer to appear and show cause why he should not be subject to a penalty if the employer refuses to make withholdings after receipt of a notice to withhold. Section 7 prohibits an employer from wrongfully refusing to make required withholdings, from knowingly misrepresenting the income of the employee whose income is subject to the withholding or from discharging, disciplining or refusing to hire an employee due to the requirement to withhold that employee's income, and provides penalties for such violations. Section 8 establishes, for an employer, immunity from any civil action for any conduct taken in compliance with a notice to withhold income.]~~

Section 8.5 of this bill authorizes the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to assess against a person who is overpaid benefits certain administrative fees prescribed by an agency of the United States. **Section 9** of this bill revises existing law by providing that certain fraudulent activity conducted by a person in order to obtain or increase any unemployment benefit or payment, including the filing of a claim while incarcerated without expressly disclosing that the person is incarcerated, constitutes unemployment insurance fraud. **Section 9** also

requires a person who commits unemployment insurance fraud to repay to the Administrator all of the benefits received by that person, in addition to any interest, penalties and ~~[assessments.]~~ **costs.** **Section 9** further provides that a person is disqualified from receiving unemployment compensation benefits for a specified period, but authorizes the Administrator to waive the period of disqualification **for good cause shown or** if the person adheres to a repayment schedule. Additionally, **section 9** provides that a person who obtains benefits of $250 or more while committing unemployment insurance fraud shall be punished in the same manner as if he committed theft. **Section 9** also provides that the repayment of such benefits may not be done by the withholding of benefits otherwise due and payable to the person unless the period of disqualification is waived by the Administrator. Finally, **section 9** authorizes the Administrator to impose a ~~[fine]~~ **penalty** equal to not more than **25 or** 50 percent of the total amount of benefits improperly obtained by a person ~~.[.]~~ **, depending on the amount improperly obtained by the person.** (NRS 612.445)

Section 10 of this bill revises existing law by authorizing the Administrator to use money from the Employment Security Fund for the payment of costs of any program or the implementation of procedures for the proper payment of benefits and the collection of contributions and reimbursements. (NRS 612.615)

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

Section 1. ~~[Chapter 612 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.]~~ **(Deleted by amendment.)**

Sec. 2. ~~*[1. The Administrator shall mail, by first class mail, a notice to withhold income to the employer of a person required to pay money to the Administrator upon:*~~

~~*(a) The filing of a certificate pursuant to NRS 612.630 which relates to the person; or*~~

~~*(b) Entry of a judgment of conviction of the person for a violation of any provision of this chapter.*~~

~~*2. If the employer does not begin to withhold income from the person after receiving the notice to withhold income that was mailed pursuant to subsection 1, the Administrator shall, by certified mail, return receipt requested, mail to the employer another notice to withhold income.*~~

~~*3. A notice to withhold income may be issued electronically and must:*~~

~~*(a) Contain the social security number of the person;*~~

~~*(b) Specify the total amount to be withheld from the income of the person, including any interest, penalties or assessments accrued pursuant to the provisions of this chapter;*~~

~~*(c) Describe the limitation for withholding income prescribed in NRS 31.295;*~~

~~*(d) Describe the prohibition against terminating the employment of a person because of withholding and the penalties for wrongfully refusing to withhold in accordance with the notice to withhold income; and*~~

~~*(e) Explain the duties of an employer upon the receipt of the notice to withhold income.]*~~ **(Deleted by amendment.)**

Sec. 3. ~~*[1. The Administrator shall notify the person who is subject to the withholding of income by first-class mail to his last known address:*~~

~~*(a) That his income is being withheld;*~~

~~*(b) That a notice to withhold income applies to any current or subsequent employer;*~~

~~*(c) That a notice to withhold income of the person has been mailed to his employer;*~~

~~*(d) Of the information provided to his employer pursuant to section 2 of this act;*~~

~~*(e) That he may contest the withholding; and*~~

~~*(f) Of the grounds and procedures for contesting the withholding.*~~

~~*2. The provisions of this section are applicable only to a person against whom there is filed a certificate or entered a judgment of conviction as described in subsection 1 of section 2 of this act.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~*[An employer who receives a notice to withhold income pursuant to section 2 of this act shall:*~~

~~*1. Withhold the amount stated in the notice from the income due to the person beginning with the first pay period that occurs within 14 days after the date the notice was mailed to the employer and continuing until:*~~

~~*(a) The Administrator notifies the employer to discontinue the withholding; or*~~

~~*(b) The full amount required to be paid to the Administrator has been paid, as indicated by a written statement to the employer from the Administrator;*~~

~~*2. Deliver the money withheld to the Administrator within 7 days after the date of each payment of the regularly scheduled payroll of the employer; and*~~

~~*3. Notify the Administrator when the person subject to withholding terminates his employment and provide the last known address of the person and the name of any new employer of the person, if known.]*~~ **(Deleted by amendment.)**

Sec. 5. ~~*[1. A notice to withhold income sent pursuant to section 2 of this act is binding upon any employer of the person to whom it is mailed. To reimburse the employer for his costs in making the withholding, the employer may deduct $3 from the amount paid to the person each time the employer makes a withholding.*~~

~~*2. Except as otherwise provided in subsection 3, if an employer receives notices to withhold income sent pursuant to section 2 of this act for more than one employee, the employer may consolidate the amounts of money*~~

~~*that are payable to the Administrator and pay those amounts with one check, but the employer shall attach to each check a statement identifying by name and social security number each person for whom payment is made and the amount transmitted for that person.*~~

~~*3. If the provisions of NRS 353.1467 apply, the employer shall make payment to the Administrator by way of any method of electronic transfer of money allowed by the Administrator. If an employer makes such payment by way of electronic transfer of money, the employer shall transmit separately the name and appropriate identification number, if any, of each person for whom payment is made and the amount transmitted for that person.*~~

~~*4. An employer shall cooperate with and provide relevant information to the Administrator as necessary to enable the Administrator to enforce any obligation to pay money to the Administrator pursuant to this chapter. A disclosure made in good faith pursuant to this subsection does not give rise to any action for damages resulting from the disclosure.*~~

~~*5. As used in this section, "electronic transfer of money" has the meaning ascribed to it in NRS 353.1467.]*~~ **(Deleted by amendment.)**

Sec. 6. ~~*[1. If an employer wrongfully refuses to withhold income as required pursuant to sections 2 to 8, inclusive, of this act, after receiving a notice to withhold income that was sent by certified mail pursuant to subsection 2 of section 2 of this act, or knowingly misrepresents the income of an employee, the Administrator may apply for and the court may issue an order directing the employer to appear and show cause why he should not be subject to the penalties prescribed in subsection 2 of section 7 of this act.*~~

~~*2. At the hearing on the order to show cause, the court, upon a finding that the employer wrongfully refused to withhold income as required or knowingly misrepresented an employee's income:*~~

~~*(a) May order the employer to comply with the requirements of sections 2 to 8, inclusive, of this act;*~~

~~*(b) May order the employer to provide accurate information concerning the employee's income;*~~

~~*(c) May fine the employer pursuant to subsection 2 of section 7 of this act; and*~~

~~*(d) Shall require the employer to pay the amount the employer failed or refused to withhold from the employee's income.]*~~ **(Deleted by amendment.)**

Sec. 7. ~~*[1. It is unlawful for an employer to use the withholding of income to collect an obligation to pay money to the Administrator as a basis for refusing to hire a potential employee, discharging an employee or taking disciplinary action against an employee. Any employer who violates this section shall hire or reinstate any such employee with no loss of pay or benefits, is liable for any amounts not withheld and shall be fined $1,000. If an employee prevails in an action based on this section, the employer is*~~

~~*liable, in an amount not less than $2,500, for payment of the employee's costs and attorney's fees incurred in that action.*~~

~~*2. If an employer wrongfully refuses to withhold from the income of a person as required pursuant to sections 2 to 8, inclusive, of this act or knowingly misrepresents the income of the person, the employer shall pay the amount the employer refused to withhold to the Administrator and may be ordered to pay punitive damages to the Administrator in an amount not to exceed $1,000 for each pay period the employer failed to withhold income as required or knowingly misrepresented the income of the person.]*~~ **(Deleted by amendment.)**

Sec. 8. ~~*[1. An employer who complies with a notice to withhold income sent pursuant to section 2 of this act that is regular on its face may not be held liable in any civil action for any conduct taken in compliance with the notice.*~~

~~*2. Compliance by an employer with a notice to withhold income sent pursuant to section 2 of this act is a discharge of the employer's liability to the person as to that portion of the income affected.*~~

~~*3. If a court issues an order to stay a withholding of income, the Administrator may not be held liable in any civil action to the person who is the subject of the withholding of income for any money withheld before the stay becomes effective.]*~~ **(Deleted by amendment.)**

Sec. 8.5. **NRS 612.365 is hereby amended to read as follows:**

612.365 1. Any person who is overpaid any amount as benefits under this chapter is liable for the amount overpaid unless:

(a) The overpayment was not due to fraud, misrepresentation or willful nondisclosure on the part of the recipient; and

(b) The overpayment was received without fault on the part of the recipient, and its recovery would be against equity and good conscience, as determined by the Administrator.

2. The amount of the overpayment must be assessed to the liable person, and he must be notified of the basis of the assessment. The notice must specify the amount for which the person is liable. In the absence of fraud, misrepresentation or willful nondisclosure, notice of the assessment must be mailed or personally served not later than 1 year after the close of the benefit year in which the overpayment was made.

3. At any time within 5 years after the notice of overpayment, the Administrator may recover the amount of the overpayment by using the same methods of collection provided in NRS 612.625 to 612.645, inclusive, 612.685 and 612.686 for the collection of past due contributions or by deducting the amount of the overpayment from any benefits payable to the liable person under this chapter.

4. The Administrator may waive recovery or adjustment of all or part of the amount of any such overpayment which he finds to be uncollectible or the recovery or adjustment of which he finds to be administratively impracticable.

5. ***To the extent allowed pursuant to federal law, the Administrator may assess any administrative fee prescribed by an applicable agency of the United States regarding the recovery of such overpayments.***

6. Any person against whom liability is determined under this section may appeal therefrom within 11 days after the date the notice provided for in this section was mailed to, or served upon, the person. An appeal must be made and conducted in the manner provided in this chapter for the appeals from determinations of benefit status. The 11-day period provided for in this subsection may be extended for good cause shown.

Sec. 9. NRS 612.445 is hereby amended to read as follows:

612.445 ~~[When the Administrator finds that any]~~

1. A person ~~[has made]~~ ***shall not make*** a false statement or representation, knowing it to be false, or knowingly ~~[failed]~~ ***fail*** to disclose a material fact in order to obtain or increase any benefit or other payment under this chapter, ***including, without limitation, by failing to properly report earnings or by filing a claim for benefits using the social security number, name or other personal identifying information of another person. A person who violates the provisions of this subsection commits unemployment insurance fraud.***

2. When the Administrator finds that a person has committed unemployment insurance fraud pursuant to subsection 1, the person shall repay to the Administrator for deposit in the Fund a sum equal to all of the benefits received by or paid to the person for each week with respect to which the false statement or representation was made or to which he failed to disclose a material fact ~~[. The]~~ ***in addition to any interest, penalties and*** ~~*[assessments]*~~ ***costs related to that sum.***

3. Except as otherwise provided in this subsection and subsection 8, the person is disqualified from receiving unemployment compensation benefits under this chapter ~~[for]~~ ***:***

(a) For a period ~~[of]~~ ***beginning with the first week claimed in violation of subsection 1 and ending*** not more than 52 consecutive weeks ~~[beginning with]~~ ***after*** the week in which it is determined that ~~[an improper]~~ ***a*** claim was filed ~~[involving the false statement or representation or failure to disclose a material fact.]~~ ***in violation of subsection 1; or***

(b) Until the sum described in subsection 2, in addition to any interest, penalties or ~~*[assessments]*~~ ***costs related to that sum, is repaid to the Administrator,***

➥ ***whichever is longer.*** The Administrator shall fix the period of disqualification according to the circumstances in each case.

4. It is a violation of subsection 1 for a person to file a claim, or to cause or allow a claim to be filed on his behalf, if:

(a) The person is incarcerated in the state prison or any county or city jail or detention facility or other correctional facility in this State; and

(b) The claim does not expressly disclose his incarceration.

5. A person who obtains benefits of $250 or more in violation of subsection 1 shall be punished in the same manner as theft pursuant to subsection 3 or 4 of NRS 205.0835.

6. In addition to the repayment of benefits required pursuant to subsection 2, if the amount of benefits which must be repaid is greater than $1,000, the Administrator may impose a [fine] penalty equal to not more than :

(a) If the amount of such benefits is greater than $1,000 but not greater than $2,500, 25 percent; or

(b) If the amount of such benefits is greater than $2,500, 50 percent ,

➥ of the total amount of benefits received by the person in violation of subsection 1 or any other provision of this chapter.

7. Except as otherwise provided in subsection 8, a person may not pay benefits as required pursuant to subsection 2 by using benefits which would otherwise be due and payable to the person if he was not disqualified.

8. The Administrator may waive the period of disqualification prescribed in subsection 3 for good cause shown or if the person adheres to a repayment schedule authorized by the Administrator that is designed to fully repay benefits received from an improper claim, in addition to any related interest, penalties and [assessments,] costs, within 18 months. If the Administrator waives the period of disqualification pursuant to this subsection, the person may repay benefits and any related interest, penalties and [assessments] costs as required pursuant to subsection 2 by using any benefits which are due and payable to the person.

9. The Administrator may recover any money required to be paid pursuant to this section in accordance with the provisions of NRS 612.365 and may collect interest on any such money in accordance with the provisions of NRS 612.620.

Sec. 10. NRS 612.615 is hereby amended to read as follows:

612.615 1. There is hereby created the Employment Security Fund as a special revenue fund.

2. All interest and forfeits collected under NRS 612.618 to 612.675, inclusive, *[and sections 2 to 8, inclusive, of this act]* and 612.740 must be paid into the Fund.

3. All money which is deposited or paid into the Fund is hereby appropriated and made available to the Administrator. The money may not be expended or made available for expenditure in any manner which would permit its substitution for, or a corresponding reduction in, federal payments which would, in the absence of this money, be available to finance expenditures for the administration of the employment security laws of the State of Nevada.

4. This section does not prevent this money from being used as a revolving fund to cover expenditures, necessary and proper under the law, for

which federal payments have been duly requested but not yet received, subject to the repayment to the Fund of such expenditures when received.

5. The money in this Fund must be used by the Administrator for the payment of costs of ~~[~~administration~~]~~ ***:***

(a) Administration which are found not to have been properly and validly chargeable against federal grants received for or in the Unemployment Compensation Administration Fund ~~[.]~~ ***; or***

(b) Any program or the implementation of procedures deemed necessary by the Administrator to ensure the proper payment of benefits and collection of contributions and reimbursements pursuant to this chapter.

6. Any balances in this Fund do not lapse at any time, but are continuously available to the Administrator for expenditure consistent with this chapter.

7. Money in this Fund must not be commingled with other state money, but must be maintained in a separate account on the books of the depositary.

Sec. 11. NRS 612.715 is hereby amended to read as follows:

612.715 ~~[~~Whoever~~]~~ ***Except as otherwise provided in subsection 5 of NRS 612.445, whoever*** makes a false statement or representation knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this chapter, either for himself or for any other person, is guilty of a misdemeanor.

Sec. 12. NRS 612.720 is hereby amended to read as follows:

612.720 ~~[~~Whenever~~]~~ ***Except as otherwise provided in subsection 5 of NRS 612.445, whenever*** two or more persons ~~[~~shall~~]~~ conspire to obtain or increase any benefit or other payment under this chapter by a false statement or representation knowing it to be false, or by knowingly failing to disclose a material fact, or whenever any person makes a series of false statements or representations knowing them to be false, to obtain or increase benefit payments under this chapter over a period of more than 1 week, every such person is guilty of a gross misdemeanor.

Sec. 13. NRS 612.725 is hereby amended to read as follows:

612.725 ~~[~~Any~~]~~ ***Except as otherwise provided in subsection 5 of NRS 612.445, any*** person residing in this State who claims benefits under any agreement existing between the Division and some other state or the Federal Government, who willfully makes a false statement or representation or knowingly fails to disclose a material fact to obtain or increase benefits under the provisions of the unemployment law of any other state or the Federal Government is guilty of a misdemeanor.

Sec. 14. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 87 be taken from its position on the Second Reading File and placed at the bottom of the Second Reading File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 95.

Bill read second time.

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

Amendment No. 431.

AN ACT relating to unfair trade practices; **authorizing the Attorney General to bring an action to prevent a proposed merger, acquisition or joint venture involving certain entities under certain circumstances;** revising the conduct to which the Nevada Unfair Trade Practice Act applies; revising the relief that the Attorney General may seek for violations of the Nevada Unfair Trade Practice Act; requiring that information received or shared in cooperation with the Federal Government or other states be kept confidential in certain circumstances; permitting the Attorney General to bring a civil action for violation of the Nevada Unfair Trade Practice Act or federal antitrust statutes on behalf of the State, its agencies, political subdivisions, districts or municipal corporations; increasing the amount of money that may be kept in the Attorney General's Special Fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Attorney General to investigate suspected violations of the Nevada Unfair Trade Practice Act and to institute proceedings to seek certain remedies for such violations. (Chapter 598A of NRS)

Section 1 of this bill provides that if there has been a review of a proposed merger, acquisition or joint venture involving entities engaged in the business of insurance by the Attorney General and one or more state agencies, the Antitrust Division of the United States Department of Justice or the Federal Trade Commission, the Attorney General may file an action against the proposed merger, acquisition or joint venture within a certain time frame.

Section 1.5 of this bill authorizes the Attorney General to investigate, review and bring an enforcement action against any proposed merger, acquisition or joint venture involving entities engaged in the business of insurance, notwithstanding certain provisions limiting the scope of the Nevada Unfair Trade Practice Act. (NRS 598A.040)

~~[Sections 1 and]~~ **Section 2** of this bill ~~[revise]~~ **revises** the conduct considered a violation of the Nevada Unfair Trade Practice Act. (NRS ~~[598A.040,]~~ 598A.060)

Sections 3, 5 and 7 of this bill revise the relief that the Attorney General may seek for violations of the Nevada Unfair Trade Practice Act. (NRS 598A.070, 598A.090, 598A.160) **Section 7** also permits the Attorney General to bring an action on behalf of the State, its agencies, political subdivisions, districts or municipal corporations for violations of the Nevada Unfair Trade Practice Act or federal antitrust law.

Sections 4 and 6 of this bill require that information received or shared in cooperation with the Federal Government or other states be kept confidential in certain circumstances. (NRS 598A.080, 598A.110) **Section 6** also allows the disclosure of confidential information when used to bring an action for a violation of federal or other state antitrust statutes.

Section 8 of this bill increases the amount of money that may be kept in the Attorney General's Special Fund before reverting to the State General Fund. (NRS 598A.260)

~~[Section 10 of this bill repeals the provision which requires other state antitrust statutes to be considered when interpreting the Nevada Unfair Trade Practice Act.]~~

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

Section 1. **Chapter 598A of NRS is hereby amended by adding thereto a new section to read as follows:**

1. In the event of a proposed merger, acquisition or joint venture involving entities engaged in the business of insurance in this State, any party proposing the merger, acquisition or joint venture may provide to the Attorney General the information required to be filed with the agency having jurisdiction over the proposal for review. The Attorney General may issue a letter to the parties within 30 days after the parties provide notice of the proposed merger, acquisition or joint venture indicating that the Attorney General will not file an action pursuant to this section.

2. Except as otherwise provided in subsections 3 and 4, if there is a review of a proposed merger, acquisition or joint venture involving entities engaged in the business of insurance in this State by the Attorney General and one or more state agencies, the Antitrust Division of the United States Department of Justice or the Federal Trade Commission, the Attorney General may file legal or regulatory action to seek relief or other remedies from the proposed merger, acquisition or joint venture. Any such legal or regulatory action must be filed before the expiration of the longer of:

(a) Thirty days after entry of a final order subject to petition for judicial review by a state agency regarding the proposed merger, acquisition or joint venture; or

(b) Thirty days after the Attorney General receives formal written notification of a final decision by either the Antitrust Division of the United States Department of Justice or the Federal Trade Commission regarding the proposed merger, acquisition or joint venture.

3. The Attorney General may petition the court to seek an extension of the filing period prescribed in subsection 2 for good cause shown. It is within the court's discretion to grant or deny such relief.

4. Nothing in this section prohibits the parties to the proposed merger, acquisition or joint venture and the Attorney General from agreeing to an extension of the filing period prescribed in subsection 2.

5. Nothing in this section precludes the exercise of any other power granted to the Attorney General.

~~[Section 1.]~~ ***Sec. 1.5.*** NRS 598A.040 is hereby amended to read as follows:

598A.040 The provisions of this chapter do not apply to:

1. Any labor, agricultural or horticultural organizations organized for the purpose of self-help and not for profit to itself nor to individual members thereof, while lawfully carrying out its legitimate objects.

2. Bona fide religious and charitable activities of any nonprofit corporation, trust or organization established exclusively for religious or charitable purposes.

3. Conduct which is expressly authorized, regulated or approved by:

(a) A statute of this State or of the United States;

(b) An ordinance of any city or county of this State, except for ordinances relating to video service providers; or

(c) An administrative agency of this State or of the United States or of a city or county of this State, having jurisdiction of the subject matter ~~[.]~~ ***,***

➥ except that notwithstanding the provisions of this subsection or chapter 686A or 692C of NRS, the Attorney General may investigate, review and bring an enforcement action pursuant to this chapter against any proposed merger, acquisition or joint venture involving entities engaged in the business of insurance in this State.

4. Conduct or agreements relating to rates, fares, classifications, divisions, allowances or charges, including charges between carriers and compensation paid or received for the use of facilities and equipment, that are authorized, regulated or approved by the Nevada Transportation Authority pursuant to chapter 706 of NRS.

5. ~~[4.]~~ Restrictive covenants:

(a) Which are part of a contract of sale for a business and which bar the seller of the business from competing with the purchaser of the business sold within a reasonable market area for a reasonable period of time; or

(b) Which are part of a commercial shopping center lease and which bar the parties from permitting or engaging in the furnishing of certain services or the sale of certain commodities within the commercial shopping center where such leased premises are located.

Sec. 2. NRS 598A.060 is hereby amended to read as follows:

598A.060 1. Every activity enumerated in this subsection constitutes a contract, combination or conspiracy in restraint of trade, and it is unlawful to conduct any part of any such activity ***affecting commerce*** in this State:

(a) Price fixing, which consists of raising, depressing, fixing, pegging or stabilizing the price of any commodity or service, and which includes, but is not limited to:

(1) Agreements among competitors to depress prices at which they will buy essential raw material for the end product.

(2) Agreements to establish prices for commodities or services.

(3) Agreements to establish uniform discounts, or to eliminate discounts.

(4) Agreements between manufacturers to price a premium commodity a specified amount above inferior commodities.

(5) Agreements not to sell below cost.

(6) Agreements to establish uniform trade-in allowances.

(7) Establishment of uniform cost surveys.

(8) Establishment of minimum markup percentages.

(9) Establishment of single or multiple basing point systems for determining the delivered price of commodities.

(10) Agreements not to advertise prices.

(11) Agreements among competitors to fix uniform list prices as a place to start bargaining.

(12) Bid rigging, including the misuse of bid depositories, foreclosures of competitive activity for a period of time, rotation of jobs among competitors, submission of identical bids, and submission of complementary bids not intended to secure acceptance by the customer.

(13) Agreements to discontinue a product, or agreements with anyone engaged in the manufacture of competitive lines to limit size, styles or quantities of items comprising the lines.

(14) Agreements to restrict volume of production.

(b) Division of markets, consisting of agreements between competitors to divide territories and to refrain from soliciting or selling in certain areas.

(c) Allocation of customers, consisting of agreements not to sell to specified customers of a competitor.

(d) Tying arrangements, consisting of contracts in which the seller or lessor conditions the sale or lease of commodities or services on the purchase or leasing of another commodity or service.

(e) Monopolization of trade or commerce in this State, including, without limitation, ***monopolization involving unilateral conduct,*** attempting to monopolize or otherwise combining or conspiring to monopolize trade or commerce in this State.

(f) Except as otherwise provided in subsection 2, consolidation, conversion, merger, acquisition of shares of stock or other equity interest, directly or indirectly, of another person engaged in commerce in this State or the acquisition of any assets of another person engaged in commerce in this State that may:

(1) Result in the monopolization of trade or commerce in this State or would further any attempt to monopolize trade or commerce in this State; or

(2) Substantially lessen competition or be in restraint of trade.

2. The provisions of paragraph (f) of subsection 1 do not:

(a) Apply to a person who, solely for an investment purpose, purchases stock or other equity interest or assets of another person if the purchaser does not use his acquisition to bring about or attempt to bring about the substantial lessening of competition in this State.

(b) Prevent a person who is engaged in commerce in this State from forming a subsidiary corporation or other business organization and owning and holding all or part of the stock or equity interest of that corporation or organization.

Sec. 3. NRS 598A.070 is hereby amended to read as follows:

598A.070 1. The Attorney General shall:

(a) Enforce the provisions of this chapter.

(b) Investigate suspected violations of the provisions of this chapter.

(c) Institute proceedings on behalf of the State, its agencies, political subdivisions, districts or municipal corporations, or as parens patriae of the persons residing in the State for:

(1) Injunctive relief to prevent and restrain a violation of any provision of this chapter.

(2) Civil penalties for violations of the provisions of this chapter.

(3) Criminal penalties for violations of the provisions of this chapter.

(4) Other equitable relief, including, without limitation, restitution, disgorgement and unjust enrichment, for violations of the provisions of this chapter.

2. Any district attorney in this State, with the permission or at the direction of the Attorney General, shall institute proceedings in the name of the State of Nevada for any violation of the provisions of this chapter.

Sec. 4. NRS 598A.080 is hereby amended to read as follows:

598A.080 The Attorney General may cooperate with and coordinate the enforcement of the provisions of this chapter with officials of the Federal Government and the several states, including ***,*** but not limited to ~~[the]~~ ***:***

1. The sharing of information and evidence obtained in accordance with NRS 598A.100 ~~[.]~~ ***, if the officials agree in writing to comply with the provisions of NRS 598A.110; and***

2. The receipt of information and evidence by the Attorney General from the officials during an investigation of a violation of this chapter. If the information and evidence are provided on a confidential basis, the information and evidence are subject to the provisions of NRS 598A.110.

Sec. 5. NRS 598A.090 is hereby amended to read as follows:

598A.090 The district courts have jurisdiction over actions and proceedings for violations of the provisions of this chapter and may:

1. Issue temporary restraining orders and injunctions to prevent and restrain violations of the provisions of this chapter.

2. Impose civil and criminal penalties and award damages as provided in this chapter.

3. Grant mandatory injunctions reasonably necessary to eliminate practices which are unlawful under the provisions of this chapter.

4. Grant other equitable relief, including, without limitation, restitution, disgorgement and unjust enrichment, for violations of the provisions of this chapter.

Sec. 6. NRS 598A.110 is hereby amended to read as follows:

598A.110 Any procedure, testimony taken, document or other tangible evidence produced, or answer made under NRS 598A.100 ***is confidential and*** shall be kept confidential by the Attorney General***_*** ~~[~~~prior to the institution of an action brought under this chapter for the alleged violation of the provisions of this chapter under investigation,~~]~~ unless:

1. Confidentiality is waived by the person upon whom the written investigative demand is made or pursuant to NRS 239.0115;

2. Disclosure is authorized by ~~[~~~the district~~]~~ ***a*** court ~~[~~~,~~]~~ ~~[~~~or~~]~~ ***of competent jurisdiction;***

3. ***Disclosure is made pursuant to an action brought under this chapter, the federal antitrust statutes or other state antitrust statutes; or***

4. Disclosure is made pursuant to NRS 598A.080. ***Any information or evidence disclosed pursuant to this subsection remains confidential .*** ~~[~~*~~to all parties except those to whom disclosure is authorized pursuant to NRS 598A.080.~~*~~]~~

Sec. 7. NRS 598A.160 is hereby amended to read as follows:

598A.160 1. The Attorney General may bring a civil action for any violation of the provisions of this chapter in the name of the State of Nevada and is entitled to recover damages and secure other relief provided by the provisions of this chapter:

(a) As parens patriae of the persons residing in this State, with respect to damages sustained directly or indirectly by such persons, or, alternatively, if the court finds in its discretion that the interests of justice so require, as a representative of a class or classes consisting of persons residing in this State who have been damaged directly or indirectly; or

(b) ~~[~~~As~~]~~ ***On behalf of or as*** parens patriae, with respect to direct or indirect damages ***to the State, its agencies, political subdivisions, districts or municipal corporations, and*** to the general economy of the State of Nevada or any political subdivision thereof.

2. In any action under this section, this State:

(a) May recover ***treble*** the aggregate damage sustained by the persons on whose behalf this State sues, without separately proving the individual claims of each such person. Proof of such damages must be based on:

(1) Statistical or sampling methods;

(2) The pro rata allocation of illegal overcharges of sales occurring within the State of Nevada; or

(3) Such other reasonable system of estimating aggregate damages as the court may permit.

(b) Shall distribute, allocate or otherwise pay the amounts so recovered in accordance with state law, or in the absence of any applicable state law, as the district court may authorize, subject to the requirement that any distribution procedure adopted afford each person on whose behalf this State sues a reasonable opportunity individually to secure the pro rata portion of such recovery attributable to his or its respective claims for damages, less litigation and administrative costs, including attorney fees, before any of the recovery is escheated.

3. The Attorney General may bring a civil action for any violation of the federal antitrust statutes in the name of the State of Nevada and is entitled to recover damages and secure other relief provided by the federal antitrust statutes:

(a) As parens patriae of the persons residing in this State; or

(b) On behalf of or as parens patriae of the State, its agencies, political subdivisions, districts or municipal corporations.

Sec. 8. NRS 598A.260 is hereby amended to read as follows:

598A.260 1. All money obtained as awards, damages or civil penalties for the State of Nevada and its agencies by the Attorney General as a result of enforcement of statutes pertaining to unfair trade practices, whether by final judgment, settlement or otherwise, must be deposited in the State Treasury as follows:

(a) All attorney's fees and costs and 50 percent of all recoveries for credit to the Attorney General's Special Fund.

(b) The balance of the recoveries for credit to the State General Fund.

2. Money deposited in the State Treasury for credit to the Attorney General's Special Fund pursuant to subsection 1 must be used for payment of the expenses of enforcing the statutes pertaining to unfair trade practices and NRS 228.500 to 228.640, inclusive. Those expenses which are in excess of the amount available in the Fund must be paid out of the legislative appropriation for the support of the Office of Attorney General.

3. On June 30 of each fiscal year, any amount in excess of ~~[$450,000]~~ ***$900,000*** in the Attorney General's Special Fund of the money collected pursuant to subsection 1 reverts to the State General Fund.

4. The balance of the money in the Attorney General's Special Fund that is collected pursuant to subsection 1 must not exceed ~~[$500,000.]~~ ***$1,500,000.*** If money deposited in the State Treasury for credit to the Attorney General's Special Fund pursuant to subsection 1 would cause that balance to exceed ~~[$500,000]~~ ***$1,500,000*** if credited to the Fund, the amount of the deposit which would cause the balance to exceed ~~[$500,000]~~ ***$1,500,000*** immediately reverts to the State General Fund.

Sec. 9. ~~[NRS 704.6884 is hereby amended to read as follows:~~

~~704.6884 The provisions of NRS 704.6881 to 704.6884, inclusive, must not be construed to exempt telecommunication providers from any other applicable statute of this State or the United States relating to consumer and antitrust protections.~~ ~~[~~The exemption provided in paragraph (c) of subsection

~~3 of NRS 598A.040 does not apply to conduct of, or actions taken by, a telecommunication provider in violation of the standards established pursuant to subsection 1 of NRS 704.6881.]~~ **] (Deleted by amendment.)**

Sec. 10. ~~[NRS 598A.050 is hereby repealed.]~~ **(Deleted by amendment.)** ~~[~~

~~TEXT OF REPEALED SECTION~~

~~598A.050 Construction of chapter. The provisions of this chapter shall be construed in harmony with prevailing judicial interpretations of the federal antitrust statutes.]~~

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 130.

Bill read second time.

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

Amendment No. 325.

SUMMARY—Revises provisions governing the ~~[approval by]~~ **membership of** a metropolitan police ~~[department of negotiated agreements under the Local Government Employee-Management Relations Act.]~~ **committee on fiscal affairs.** (BDR 22-632)

AN ACT relating to ~~[labor;]~~ **police departments;** revising provisions governing the ~~[approval by]~~ **membership of** a metropolitan police ~~[department of negotiated agreements under the Local Government Employee-Management Relations Act;]~~ **committee on fiscal affairs;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that **each representative of a political subdivision that participates on** a metropolitan police ~~[department be represented in negotiations under the Local Government Employee-Management Relations Act (chapter 288 of NRS) by its]~~ committee on fiscal affairs ~~[and the sheriff, or their designated representatives. (NRS 280.320)]~~ **must be a member of the governing body of the political subdivision and serves at the pleasure of the governing body making the appointment. (NRS 280.130)** This bill provides ~~[that the persons who represent the department in such negotiations have the exclusive authority, by a majority vote of those persons, to approve on behalf of the department any agreement resulting from the negotiations.]~~ **instead that each member of the committee serves for a term of 2 years and may be removed for cause by a majority vote of the other members of the committee.**

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

Section 1. ~~[NRS 280.320 is hereby amended to read as follows:~~

~~280.320 1. A department is a local government employer for the purpose of the Local Government Employee-Management Relations Act and a public employer for the purpose of the Public Employees' Retirement Act.~~

~~2. In negotiations arising under the provisions of chapter 288 of NRS:~~

~~(a) The committee or two or more persons designated by it; and~~

~~(b) The sheriff or a person designated by him,~~

~~→ shall represent the department.~~

~~3. *Notwithstanding any specific statute to the contrary, the persons who represent the department in such negotiations have the exclusive authority, by a majority vote of those persons, to approve on behalf of the department any agreement resulting from the negotiations.*~~

~~*4.* In negotiations arising under the provisions of chapter 288 of NRS, a school police unit must be considered a separate bargaining unit.~~**] (Deleted by amendment.)**

Sec. 2. **NRS 280.130 is hereby amended to read as follows:**

280.130 1. The committee consists of two representatives from each participating political subdivision.

2. Representatives of the participating political subdivisions are not entitled to receive any additional compensation or be reimbursed by the department for any expenses incurred while serving on the committee.

3. Each representative of a participating political subdivision must be a member of its governing body**.** ~~[and serves at the pleasure of the governing body making the appointment.]~~ ***Except as otherwise provided in subsection 4, the term of each member of the committee is 2 years. The committee, by a majority vote of the other members, may remove a member of the committee at any time for cause.***

4. The members of the committee shall, by ***a*** majority vote, select an additional member of the committee from the general public from a list consisting of three persons nominated by each participating political subdivision and three persons nominated by the sheriff. That person:

(a) Must reside in the area served by the department.

(b) Shall serve until August 1 next succeeding and until his successor is selected.

(c) May succeed himself.

(d) Is entitled to receive as compensation $40 for each day of service.

(e) Is entitled to reimbursement for his necessary travel and per diem expenses in the manner provided by the committee for the reimbursement of officers and employees of the department.

5. If the members of the committee fail to agree on the additional member to be selected pursuant to subsection 4 within 30 days after their initial meeting following the merger or by August 1 of any year thereafter, the additional member of the committee must be appointed by the Governor without regard to the lists submitted. The person so appointed must reside in the area served by the department.

6. At its first meeting and in August of each year thereafter, the committee shall select one of its members to act as chairman.

~~[Sec. 2.]~~ ***Sec. 3.*** This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 147.

Bill read second time.

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

Amendment No. 123.

ASSEMBLYMEN Spiegel, Kirkpatrick **,** ~~[AND]~~ Smith **; AND HAMBRICK**

SUMMARY—Requires local governments **, under certain circumstances,** to grant preference to local bidders bidding on certain contracts for goods or services. (BDR 27-753)

AN ACT relating to purchasing by local governments; requiring local governments **, under certain circumstances,** to grant a preference to local bidders bidding on certain contracts for goods or services; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for a 5-percent preference in bidding on public works and certain highway construction projects for contractors who provide evidence of the payment of certain taxes. (NRS 338.1389, 338.147, 338.1693, 338.1727, 408.3883, 408.3886) Sections 1 and 2 of this bill provide for a 5-percent preference in bidding on local governmental purchasing contracts for contractors who qualify as a "local bidder," and set forth the ~~[parameters within which the governing body of a local government is required to define that term.]~~ **criteria by which a bidder may qualify as a local bidder.**

Under existing law, certain local governmental contracts for certain goods and services are stated to be, by their nature, not adapted to award by competitive bidding. (NRS 332.115) Sections 1 and 3 of this bill provide that, irrespective of this exclusion from competitive bidding, local governmental contracts for the following types of goods and services must reflect ~~[a 5-percent preference]~~ **consideration** for local contractors if the governing body of the local government or its authorized representative has a choice of more than one person or vendor to fulfill the contract: (1) professional services; (2) perishable goods; (3) insurance; (4) hardware and associated peripheral equipment and devices for computers; (5) software for computers; (6) books, library materials and subscriptions; (7) items for resale through a retail outlet operated in this State by a local government or the State of Nevada; and (8) the design of, and equipment and services associated with, systems of communication.

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

Section 1. Chapter 332 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~*[With]*~~ ***Except as otherwise provided in subsections 5 and 6, with respect to the awarding of a contract pursuant to NRS 332.065*** ~~*[,]*~~ ***for which the estimated annual amount to perform the contract is more than $25,000, a responsive and responsible bidder who is a local bidder shall be deemed to have submitted a lower bid than a competing bidder who is not a local bidder if the amount of the bid of the local bidder is not more than 5 percent higher than the amount bid by the competing bidder.***

2. With respect to the awarding of a contract of the type described in paragraph (b), (e), (f), (g), (h), (i), (n) or (q) of subsection 1 of NRS 332.115, if a governing body or its authorized representative has a choice of more than one person or vendor to fulfill the contract, at least one of whom is a local bidder, the contract must be awarded in such a manner as to reflect the preference described in subsection ~~*[1.*~~

~~*3. The governing body of each local government that awards contracts as described in subsection 1 shall, by ordinance or regulation, define the term "local bidder" for the purposes of that subsection.*~~

~~*4. In carrying out the duty set forth in subsection 3, the governing body shall define the term "local bidder" so that:*~~

~~*(a) A bidder is not deemed to be a local bidder unless the bidder produces evidence that the bidder has contributed financially to one or more local governments in this State.*~~

~~*(b) The financial contribution necessary for a bidder to be deemed a local bidder is evaluated solely on the basis of taxes or fees paid.*~~

~~*(c) A bidder desiring to be deemed a local bidder has the burden of proving the quantity of taxes and fees paid by providing to the governing body cancelled checks, credit card or debit card receipts, bank statements or other indicia of payment satisfactory to the governing body.*~~

~~*(d) The governing body retains discretion to determine the geographic area within which the payment of taxes or fees applies toward a bidder qualifying as a local bidder.*~~

~~*5.]*~~ ***6 of that section.***

3. To qualify as a local bidder for the purposes of this section:

(a) If the bidder is a business of which at least 51 percent of the ownership interest is held by a member of a minority group, a woman or a service-disabled veteran, the business must have continuously employed at least one full-time employee in this State during the immediately preceding 1-year period.

(b) If the bidder is a business that does not meet the requirements of paragraph (a), the business must have:

(1) Continuously conducted business operations in this State during the immediately preceding 2-year period; and

(2) Continuously employed at least one full-time employee in this State during the immediately preceding 2-year period.

4. Governing bodies and their authorized representatives shall consult with the Purchasing Division of the Department of Administration to develop uniform standards for businesses to submit proof of their status for the purposes of subsection 3. Such uniform standards may include, without limitation, certification by reputable and reliable public or private entities to determine whether at least 51 percent of the ownership interest of a business is or is not held by a member of a minority group, a woman or a service-disabled veteran.

5. The provisions of this section do not require a local government or its authorized representative to award a contract to a bidder whose quality of services, supplies, materials, equipment or labor does not conform to the requirements of the local government or if the public interest would be served by rejection of the bid.

6. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular contract because of the provisions of this section, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that contract.

7. As used in this section:

(a) "Minority group" has the meaning ascribed to it in NRS 232.472.

(b) "Service-disabled veteran" means a veteran of the Armed Forces of the United States who has a service-connected disability of 0 percent or greater as determined by the United States Department of Veterans Affairs.

Sec. 2. NRS 332.065 is hereby amended to read as follows:

332.065 1. If a governing body or its authorized representative has advertised for or requested bids in letting a contract, the governing body or its authorized representative must, except as otherwise provided in subsection 2, award the contract to the lowest responsive and responsible bidder. The lowest responsive and responsible bidder ~~[may]~~ ***must*** be judged on the basis of:

(a) Price;

(b) Conformance to specifications;

(c) Qualifications;

(d) Past performance;

(e) Performance or delivery date;

(f) Quality and utility of services, supplies, materials or equipment offered and the adaptability of those services, supplies, materials or equipment to the required purpose of the contract;

(g) ***The status of the bidder as a local bidder, as determined pursuant to section 1 of this act;***

(h) The best interests of the public; and

~~[(h)]~~ ***(i)*** Such other criteria as may be set forth by the governing body or its authorized representative in the advertisement or request for bids, as applicable, that pertains to the contract.

2. The governing body or its authorized representative:

(a) Shall give preference to recycled products if:

(1) The product meets the applicable standards;

(2) The product can be substituted for a comparable nonrecycled product; and

(3) The product costs no more than a comparable nonrecycled product.

(b) May give preference to recycled products if:

(1) The product meets the applicable standards;

(2) The product can be substituted for a comparable nonrecycled product; and

(3) The product costs no more than 5 percent more than a comparable nonrecycled product.

(c) May purchase recycled paper products if the specific recycled paper product is:

(1) Available at a price which is not more than 10 percent higher than that of paper products made from virgin material;

(2) Of adequate quality; and

(3) Available to the purchaser within a reasonable period.

3. If **,** after the lowest responsive and responsible bidder has been awarded the contract, during the term of the contract he does not supply goods or services in accordance with the bid specifications, or if he repudiates the contract, the governing body or its authorized representative may reaward the contract to the next lowest responsive and responsible bidder without requiring that new bids be submitted. Reawarding the contract to the next lowest responsive and responsible bidder is not a waiver of any liability of the initial bidder awarded the contract.

4. As used in this section:

(a) "Postconsumer waste" means a finished material which would normally be disposed of as a solid waste having completed its life cycle as a consumer item.

(b) "Recycled paper product" means all paper and wood-pulp products containing in some combination at least 50 percent of its total weight:

(1) Postconsumer waste; and

(2) Secondary waste,

➥ but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls, wood slabs, chips, sawdust or other wood residue from a manufacturing process.

(c) "Secondary waste" means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value.

Sec. 3. NRS 332.115 is hereby amended to read as follows:

332.115 1. Contracts which by their nature are not adapted to award by competitive bidding, including contracts for:

(a) Items which may only be contracted from a sole source;

(b) Professional services;

(c) Additions to and repairs and maintenance of equipment which may be more efficiently added to, repaired or maintained by a certain person;

(d) Equipment which, by reason of the training of the personnel or of an inventory of replacement parts maintained by the local government is compatible with existing equipment;

(e) Perishable goods;

(f) Insurance;

(g) Hardware and associated peripheral equipment and devices for computers;

(h) Software for computers;

(i) Books, library materials and subscriptions;

(j) Motor vehicle fuel purchased by a local law enforcement agency for use in an undercover investigation;

(k) Motor vehicle fuel for use in a vehicle operated by a local law enforcement agency or local fire department if such fuel is not available within the vehicle's assigned service area from a fueling station owned by the State of Nevada or a local government;

(l) Purchases made with money in a store fund for prisoners in a jail or local detention facility for the provision and maintenance of a canteen for the prisoners;

(m) Supplies, materials or equipment that are available pursuant to an agreement with a vendor that has entered into an agreement with the General Services Administration or another governmental agency located within or outside this State;

(n) Items for resale through a retail outlet operated in this State by a local government or the State of Nevada;

(o) Commercial advertising within a recreational facility operated by a county fair and recreation board;

(p) Goods or services purchased from organizations or agencies whose primary purpose is the training and employment of persons with disabilities; and

(q) The design of, and equipment and services associated with, systems of communication,

➥ are not ~~*[, except as otherwise provided in subsection 2 of section 1 of this act,]*~~ subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative.

2. The purchase of equipment for use by a local law enforcement agency in the course of an undercover investigation is not subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative, if:

(a) The equipment is an electronic or mechanical device which by design is intended to monitor and document in a clandestine manner suspected criminal activity; or

(b) Purchasing the equipment pursuant to such requirements would limit or compromise the use of such equipment by an agency authorized to conduct such investigations.

3. The purchase of personal safety equipment for use by a response agency or any other local governmental agency is not subject to the requirements of this chapter for competitive bidding, as determined by the governing body or its authorized representative, if:

(a) The personal safety equipment will be used by personnel of the response agency or other local governmental agency in preventing, responding to or providing services of recovery or relief in connection with emergencies, acts of terrorism or other natural or man-made disasters in which the health, safety or welfare of those personnel may be compromised, impaired or otherwise threatened; and

(b) The cost of the personal safety equipment is comparable to the cost of similar personal safety equipment that is available for purchase by the public.

4. The governing body of a hospital required to comply with the provisions of this chapter, or its authorized representative, may purchase goods commonly used by the hospital, under a contract awarded pursuant to NRS 332.065, without additional competitive bidding even if at the time the contract was awarded:

(a) The vendor supplying such goods to the person awarded the contract was not identified as a supplier to be used by the person awarded the contract; or

(b) The vendor was identified as a supplier but was not identified as the supplier of such goods.

➥ The governing body of the hospital shall make available for public inspection each such contract and records related to those purchases.

5. This section does not prohibit a governing body or its authorized representative from advertising for or requesting bids.

6. ***Notwithstanding the provisions of subsections 1 to 5, inclusive, and except as otherwise provided in subsections 7 and 8, if a governing body or its authorized representative is choosing between two or more businesses, contractors or vendors to fulfill a contract described in paragraph (b), (e), (f), (g), (h), (i), (n) or (q) of subsection 1, the governing body or authorized representative, as applicable, shall:***

(a) Include within its selection criteria consideration of the following factors:

(1) The number of residents of this State that the business, contractor or vendor employs;

(2) The amount of taxes and fees paid by the business, contractor or vendor to state and local governmental entities in Nevada;

(3) The length of time in which the business, contractor or vendor has maintained business operations in this State or the applicable local jurisdiction; and

(4) If the contract to be fulfilled is a contract described in paragraph (b) of subsection 1, the number of owners and principals of the business, contractor or vendor who are residents of this State.

(b) If the governing body or authorized representative uses a point system or similar scoring rubric, and if one or more of the businesses, contractors or vendors being considered qualifies as a local bidder pursuant to section 1 of this act, the status of being a local bidder must account for not less than 5 percent of the points or score awarded.

7. The provisions of subsection 6 do not require a local government or its authorized representative to award a contract to a business, contractor or vendor whose quality of services, supplies, materials, equipment or labor does not conform to the requirements of the local government or if the public interest would be served by rejection of the offer to fulfill the contract.

8. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular contract because of the provisions of subsection 6, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that contract.

9. As used in this section:

(a) "Act of terrorism" has the meaning ascribed to it in NRS 239C.030.

(b) "Personal safety equipment" means safety equipment that personnel of a response agency or other local governmental agency:

(1) Use in the course of preventing, responding to or providing services of recovery or relief in connection with emergencies, acts of terrorism or other natural or man-made disasters; or

(2) Wear or otherwise carry on a regular basis.

➥ The term includes, without limitation, firearms, boots, bulletproof vests or other types of body armor, protective garments, protective eyewear, gloves, helmets, and any specialized apparatus, equipment or materials approved or recommended by the United States Department of Homeland Security.

(c) "Response agency" means an agency of a local government that provides services related to law enforcement, firefighting, emergency medical care or public safety.

Sec. 4. **NRS 625.530 is hereby amended to read as follows:**

625.530 Except as otherwise provided in NRS 338.1711 to 338.1727, inclusive, and 408.3875 to 408.3887, inclusive:

1. The State of Nevada or any of its political subdivisions, including a county, city or town, shall not engage in any public work requiring the practice of professional engineering or land surveying, unless the maps, plans, specifications, reports and estimates have been prepared by, and the

work executed under the supervision of, a professional engineer, professional land surveyor or registered architect.

2. The provisions of this section do not:

(a) Apply to any public work wherein the expenditure for the complete project of which the work is a part does not exceed $35,000.

(b) Include any maintenance work undertaken by the State of Nevada or its political subdivisions.

(c) Authorize a professional engineer, registered architect or professional land surveyor to practice in violation of any of the provisions of chapter 623 of NRS or this chapter.

(d) Require the services of an architect registered pursuant to the provisions of chapter 623 of NRS for the erection of buildings or structures manufactured in an industrial plant, if those buildings or structures meet the requirements of local building codes of the jurisdiction in which they are being erected.

3. The selection of a professional engineer, professional land surveyor or registered architect to perform services pursuant to subsection 1 must be made on the basis of the competence and qualifications of the engineer, land surveyor or architect for the type of services to be performed and not on the basis of competitive fees **[.]** ***, but this sentence does not prohibit consideration of the factors set forth in subsection 6 of NRS 332.115.*** If, after selection of the engineer, land surveyor or architect, an agreement upon a fair and reasonable fee cannot be reached with him, the public agency may terminate negotiations and select another engineer, land surveyor or architect.

Sec. 5. **Each local government that awards a contract in accordance with the provisions of section 1 of this act or NRS 332.115, as amended by section 3 of this act, or both, shall, on or before October 1 of each year in which it awards such a contract, submit to the Director of the Legislative Counsel Bureau a report setting forth:**

1. The number of transactions conducted by the local government that are subject to the provisions of this act.

2. The number of businesses, contractors and vendors that qualified as local bidders pursuant to section 1 of this act.

3. A description of each type of transaction conducted by the local government which was subject to the provisions of this act, including, without limitation:

(a) Whether the transaction was for goods or services.

(b) The particular type of goods or services involved in the transaction.

(c) The total dollar amount of the transaction.

4. The number of businesses, contractors and vendors that:

(a) Were awarded a contract without being qualified as a local bidder or without receiving any consideration as a local bidder.

(b) Were awarded a contract, in whole or in part, because they were qualified as a local bidder or received consideration as a local bidder.

The information required pursuant to this paragraph must include, for each such contract, the dollar amount of the contract.

5. Any other information determined to be relevant by the Director of the Legislative Counsel Bureau.

~~[Sec. 4.]~~ ***Sec. 6.*** This act becomes effective ~~[upon passage and approval.]~~ **on July 1, 2009.**

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 159.

Bill read second time.

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

Amendment No. 487.

SUMMARY—Prohibits the Governor or any other state officer or employee **, without authorization by the Legislature,** from binding the State to the requirements of an international trade agreement ~~[without authorization by the Legislature.]~~ **or otherwise committing the State to comply with the nontariff terms of an international trade agreement.** (BDR ~~[19-386)]~~ **52-386)**

AN ACT relating to international trade agreements; prohibiting the Governor or any other state officer or employee **, without authorization by the Legislature,** from binding the State to the requirements of an international trade agreement ~~[without authorization by the Legislature;]~~ **or otherwise committing the State to comply with the nontariff terms of an international trade agreement;** invalidating any prior consent to any such requirements in an international trade agreement; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Certain international trade agreements, such as the Agreement on Government Procurement, obligate states and local governments to certain requirements concerning government purchasing. **Section 1** of this bill prohibits the Governor or any other state officer or employee **, without authorization by the Legislature,** from **: (1)** binding the State to the requirements of an international trade agreement ~~[without authorization by the Legislature.]~~ **or otherwise committing the State to comply with the nontariff terms of an international trade agreement; or (2) giving consent to the Federal Government to bind the State to the requirements of an international trade agreement or otherwise indicating that the State will comply with the nontariff terms of an international trade agreement.** **Section 2** of this bill invalidates any prior consent to such requirements of an international trade agreement.

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

Section 1. Chapter ~~[237A]~~ **597** of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a state officer or employee, including the Governor, may not:

(a) Bind the State to the requirements of an international trade agreement or otherwise commit the State to comply with the nontariff terms of an international trade agreement; or

(b) Give consent to the Federal Government to bind the State to the requirements of an international trade agreement or otherwise indicate that the State will comply with the nontariff terms of an international trade agreement.

2. The Governor may not bind the State or give consent to the Federal Government to bind the State to the requirements of an international trade agreement ~~[only if]~~ or otherwise commit the State to comply with the nontariff terms of an international trade agreement unless the Legislature has enacted legislation that explicitly authorizes the Governor to do so.

3. As used in this section, "international trade agreement" means a trade agreement between the Federal Government and a foreign country to which the State, at the request of the Federal Government, is a ~~[party.]~~ participant. The term does not include a trade agreement between the State and a foreign country to which the Federal Government is not a party.

Sec. 2. 1. Any consent that the Governor or any other state officer or employee has given on or before the effective date of this act for the State to be bound by the requirements of an international trade agreement is hereby declared to be invalid, and the State is not bound by such requirements.

2. As used in this section, "international trade agreement" has the meaning ascribed to it in section 1 of this act.

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

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 192.

Bill read second time.

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

Amendment No. 326.

AN ACT relating to local government purchasing; making various changes to the provisions governing performance contracts entered into by local governments for operating cost-savings measures; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes and sets forth the requirements for local governments to enter into performance contracts for the purchase and installation of operating cost-savings measures to reduce costs related to such

matters as energy, water and the disposal of waste, and related labor costs. (NRS 332.300-332.440) Existing law sets forth the procedures by which a local government will compile a list of the qualified service companies that it determines have a record of established projects or have demonstrated technical, operational, financial and managerial capabilities to design and carry out operating cost-savings measures. Under existing law, the local government must solicit proposals for a performance contract from such companies. (NRS 332.350, 332.360) **Sections 2-5, 11 and 12** of this bill provide that a company must apply to the local government, meet certain qualifications and be preapproved by a local government before it may submit a proposal for a performance contract.

Section 6 of this bill requires that performance contracts for operating cost-savings measures identify the specific dollar amount and units or percentages of consumption that will be eliminated or avoided as a result of the operating cost-savings measures.

Section 6.5 of this bill requires a local government that enters into a performance contract for operating cost-savings measures to submit a report annually to the Legislature or, when the Legislature is not in session, the Interim Finance Committee.

Section 8 of this bill amends the definition of "building" to provide that performance contracts apply only to existing buildings. (NRS 332.310)

Section 9 of this bill adds ground source systems of heating and cooling to the list of operating cost-savings measures that may be included in a performance contract. (NRS 332.330)

Section 13 of this bill eliminates the option for a performance contract to be structured as a shared-savings contract. (NRS 332.370)

Section 14 of this bill provides that the bonding requirements set forth in the provisions of chapter 339 of NRS apply to performance contracts that exceed $100,000. (NRS 332.390)

Existing law authorizes a local government to reinvest any savings realized under a performance contract into operating cost-savings measures. (NRS 332.410) **Section 15** of this bill requires that such reinvestment comply with the provisions of NRS 332.300-332.440 and **sections ~~[2-6]~~ 2-6.5** of this bill.

~~[Existing law requires that performance contracts guarantee that operating cost savings are realized by the local government if actual cost savings do not meet the predicted cost savings. Section 16 of this bill provides that a local government may reduce the payments on a performance contract that is an installment payment contract if the actual operating cost savings do not meet the predicted operating cost savings. (NRS 332.440)]~~

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

Section 1. Chapter 332 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[6,]~~ **6.5,** inclusive, of this act.

Sec. 2. ***1. Except as otherwise provided in section 5 of this act, a person who wishes to qualify as a qualified service company and submit a proposal for a performance contract with a local government must file an application with the local government.***

2. Upon receipt of an application pursuant to subsection 1, the local government shall:

(a) Investigate the applicant to determine whether he is qualified to bid on a performance contract; and

(b) After conducting the investigation, determine whether the applicant is qualified to bid on a performance contract. ~~*[The determination must be made within 45 days after receipt of the application.]*~~

3. The local government shall notify each applicant in writing of its determination. ~~*[If an application is denied, the notice must set forth the reasons for the denial and inform the applicant of his right to a hearing pursuant to section 4 of this act.]*~~

4. The local government may determine an applicant is qualified to bid:

(a) On a specific project; or

(b) On more than one project over a period of time to be determined by the local government.

5. Except as otherwise provided in section 5 of this act, the local government shall ~~*[not use any criteria other than]*~~ ***use only the criteria described in section 3 of this act in determining whether to approve or deny an application.***

6. Except as otherwise provided in NRS 239.0115, financial information and other data pertaining to the net worth of an applicant which is gathered by or provided to a local government to determine the financial ability of an applicant to perform a contract is confidential and not open to public inspection.

Sec. 3. ***1. Except as otherwise provided in section 5 of this act, a local government shall use the following criteria for determining whether a person satisfies the requirements to be a qualified service company pursuant to NRS 332.360:***

~~*[1.]*~~ ***(a) Whether the applicant possesses a business license issued pursuant to NRS 360.780;***

~~*[2.]*~~ ***(b) Whether the applicant possesses a valid contractor's license issued pursuant to chapter 624 of NRS of a class corresponding to the work required by the local government and, if engineering work is required, whether the applicant possesses a valid license as a professional engineer issued pursuant to chapter 625 of NRS;***

~~*[3.]*~~ ***(c) Whether the applicant has the ability to obtain the necessary bonding for the work required by the local government;***

~~*[4.]*~~ ***(d) Whether the applicant has successfully completed an appropriate number of projects as determined by the local government, but not to exceed five projects, during the 5 years immediately preceding the***

date of application of similar size, scope or type as the work required by the local government;

~~[5.]~~ (e) Whether the principal personnel employed by the applicant have the necessary professional qualifications and experience for the work required by the local government;

~~[6.]~~ (f) Whether the applicant has breached any contracts with a public agency or person in this State or any other state during the 5 years immediately preceding the date of application;

~~[7.]~~ (g) Whether the applicant has been disqualified from being awarded a contract by any governing body in the State of Nevada;

~~[8.]~~ (h) Whether the applicant has been convicted of a violation for discrimination in employment during the 2 years immediately preceding the date of application;

~~[9.]~~ (i) Whether the applicant has the ability to obtain and maintain insurance coverage for public liability and property damage within limits sufficient to protect the applicant and all the subcontractors of the applicant from claims for personal injury, accidental death and damage to property that may arise in connection with the work required by the local government;

~~[10.]~~ (j) Whether the applicant has established a safety program that complies with the requirements of chapter 618 of NRS;

~~[11.]~~ (k) Whether the applicant has been disciplined or fined by the State Contractors' Board or another state or federal agency for conduct that relates to the ability of the applicant to perform the work required by the local government;

~~[12.]~~ (l) Whether, during the 5 years immediately preceding the date of application, the applicant has filed as a debtor under the provisions of the United States Bankruptcy Code;

~~[13.]~~ (m) Whether the application is truthful and complete; and

~~[14.]~~ (n) Whether, during the 5 years immediately preceding the date of the application, the applicant has, as a result of causes within the control of the applicant or a subcontractor or supplier of the applicant, failed to perform any contract:

~~[(a)]~~ (1) In the manner specified by the contract and any change orders initiated or approved by the person or governmental entity that awarded the contract or its authorized representative;

~~[(b)]~~ (2) Within the time specified by the contract unless extended by the person or governmental entity that awarded the contract or its authorized representative; or

~~[(c)]~~ (3) For the amount of money specified in the contract or as modified by any change orders initiated or approved by the person or governmental entity that awarded the contract or its authorized representative.

➥ Evidence of the failures described in this subsection may include, without limitation, the assessment of liquidated damages against the

applicant, the forfeiture of any bonds posted by the applicant, an arbitration award granted against the applicant or a decision by a court of law against the applicant.

2. Except as otherwise provided in section 5 of this act, in addition to the criteria described in subsection 1, the local government may use any other relevant criteria that are necessary to determine whether a person satisfies the requirements to be a qualified service company pursuant to NRS 332.360.

Sec. 4. ~~***[1. If, within 10 days after receipt of the notice denying an application pursuant to section 2 of this act, the applicant files a written request for a hearing with the local government, the governing body shall set the matter for a hearing within 20 days after receipt of the request. The hearing must be held not later than 45 days after the receipt of the request for a hearing unless the parties, by written stipulation, agree to extend the time.***~~

~~***2. The hearing must be held at a time and place prescribed by the local government. At least 10 days before the date set for the hearing, the local government shall serve the applicant with written notice of the hearing. The notice may be served by personal delivery to the applicant or by certified mail to the last known business or residential address of the applicant.***~~

~~***3. The applicant has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to bid on a performance contract.***~~

~~***4. In conducting a hearing pursuant to this section, the governing body may:***~~

~~***(a) Administer oaths;***~~

~~***(b) Take testimony;***~~

~~***(c) Issue subpoenas to compel the attendance of witnesses to testify before the governing body;***~~

~~***(d) Require the production of related books, papers and documents; and***~~

~~***(e) Issue commissions to take testimony.***~~

~~***5. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.***~~

~~***6. The governing body shall issue a decision on the matter during the hearing. The decision of the governing body is a final decision for purposes of judicial review.]***~~ **(Deleted by amendment.)**

Sec. 5. ***Notwithstanding the provisions of section 3 of this act, a governing body may deem a person a qualified service company if the person has been determined by:***

1. The State Public Works Board or a local government pursuant to NRS 338.1379 to be qualified to bid on a public work; or

2. Another local government pursuant to section 2 of this act to be qualified as a qualified service company.

Sec. 6. ***A performance contract that guarantees operating cost savings must identify the specific dollar amount and units or percentages of consumption that the qualified service company anticipates will be eliminated or avoided on a long-term basis as a result of the operating cost-savings measures that the local government is implementing.***

Sec. 6.5. 1. Each local government that enters into a performance contract pursuant to NRS 332.300 to 332.440, inclusive, and sections 2 to 6.5, inclusive, of this act, shall, on or before February 1 of each year, prepare and submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature if the Legislature is in session, or to the Interim Finance Committee if the Legislature is not in session.

2. The report required pursuant to subsection 1 must include, without limitation:

(a) The status of the construction and financing of the operating cost-savings measures described in the performance contract.

(b) The cumulative amount of operating cost-savings that have resulted from the operating cost-savings measures.

(c) The amount of operating cost-savings that are projected for the future.

(d) Any other information required by the Legislature or Interim Finance Committee.

Sec. 7. NRS 332.300 is hereby amended to read as follows:

332.300 As used in NRS 332.300 to 332.440, inclusive, ***and sections 2 to*** ~~[6,]~~ ***6.5, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 332.310 to 332.350, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 332.310 is hereby amended to read as follows:

332.310 "Building" means any ***existing*** structure, building or facility, including any equipment, furnishings or appliances within the ***existing*** structure, building or facility, that is owned or operated by a local government. The term includes, without limitation, occupied and unoccupied ***existing*** structures, buildings and facilities, and any other ***existing*** improvements owned or operated by a local government that incur operating costs.

Sec. 9. NRS 332.330 is hereby amended to read as follows:

332.330 "Operating cost-savings measure" ~~[means]~~ ***:***

1. Means any improvement, repair or alteration to a building, or any equipment, fixture or furnishing to be added or used in a building that is designed to reduce operating costs, including ***, without limitation,*** those costs related to electrical energy and demand, thermal energy, water consumption, waste disposal and contract-labor costs, and increase the operating efficiency of the building for the appointed functions that are cost-effective. ~~[The term includes,]~~

2. Includes, without limitation:

~~[1. Procurement of low-cost energy supplies, including electricity and natural gas.~~

~~2. Procurement of cost savings as a result of outsourcing energy needs for electrical power, heating and cooling.~~

~~3.]~~ ***(a)*** Operational or maintenance labor savings resulting from reduced costs for maintenance contracts as provided through reduction of required maintenance or operating tasks, including, without limitation, replacement of filters and lighting products, and equipment failures.

~~[4.]~~ ***(b)*** Investment in equipment, products and materials, and strategies for building operation, or any combination thereof, designed to reduce energy and other utility expenses, including, without limitation:

~~[(a)]~~ ***(1)*** Costs for materials and labor required to replace old equipment with new, more efficient equipment.

~~[(b)]~~ ***(2)*** Storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed or coated windows or doors, reductions in glass area, and other modifications to windows and doors that will reduce energy consumption.

~~[(c)]~~ ***(3)*** Automated or computerized energy control systems.

~~[(d)]~~ ***(4)*** Replacement of, or modifications to, heating, ventilation or air-conditioning systems.

~~[(e)]~~ ***(5)*** Replacement of, or modifications to, lighting fixtures.

~~[(f)]~~ ***(6)*** Improvements to the indoor air quality of a building that conform to all requirements of an applicable building code.

~~[(g)]~~ ***(7)*** Energy recovery systems.

~~[(h)]~~ ***(8)*** Systems for combined cooling, heating and power that produce steam or other forms of energy, for use primarily within the building or a complex of buildings.

~~[(i)]~~ ***(9)*** Installation of, or modifications to, existing systems for daylighting, including lighting control systems.

~~[(j)]~~ ***(10)*** Installation of, or modification to, technologies that use renewable or alternative energy sources.

~~[(k)]~~ ***(11)*** Programs relating to building operation that reduce operating costs, including, without limitation, computerized programs, training and other similar activities.

~~[(l)]~~ ***(12)*** Programs for improvement of steam traps to reduce operating costs.

~~[(m)]~~ ***(13)*** Devices that reduce water consumption in buildings, for lawns and for other irrigation applications.

~~[(n)]~~ ***(14)*** Any additional improvements to building infrastructures that produce energy and operating cost savings, significantly reduce energy consumption or increase the operating efficiency of the buildings for their appointed functions, provided that such improvements comply with applicable building codes.

~~[(o)]~~ ***(15)*** Trash compaction and waste minimization.

~~[5.]~~ ***(16) Ground source systems for heating and cooling.***

(c) Investment in educational programs relating to ~~[occupational behavior that are designed to reduce the consumption of energy or water, or both, and the generation of waste.]~~ ***the operation and maintenance of any equipment installed to reduce operating costs.***

3. Does not include the construction of a new building or any addition to a building that increases the square footage of the building.

Sec. 10. NRS 332.340 is hereby amended to read as follows:

332.340 "Performance contract" means a ***written*** contract between a local government and a qualified service company for the evaluation, recommendation and implementation of one or more operating cost-savings measures.

Sec. 11. NRS 332.350 is hereby amended to read as follows:

332.350 "Qualified service company" means a person ~~[with a record of established projects or a person with demonstrated technical, operational, financial and managerial capabilities to design and carry out operating cost-savings measures and other similar building improvements, and who has the ability to secure necessary financial measures to ensure related guarantees for operating cost savings.]~~ ***who is qualified to bid on a performance contract pursuant to section 2 or 5 of this act.***

Sec. 12. NRS 332.360 is hereby amended to read as follows:

332.360 1. Notwithstanding any provision of this chapter and chapter 338 of NRS to the contrary, a local government may enter into a performance contract with a qualified service company for the purchase and installation of an operating cost-savings measure to reduce costs related to energy, water and the disposal of waste, and related labor costs. Such a performance contract may be in the form of an installment payment contract or a lease-purchase contract. Any operating cost-savings measures put into place as a result of a performance contract must comply with all applicable building codes.

2. ~~[The local government shall determine those companies that satisfy the requirements of qualified service companies for the purposes of NRS 332.300 to 332.440, inclusive. The local government shall prepare and issue a request for qualifications to not less than three potential qualified service companies.~~

~~3. In sending out a request for qualifications, the local government:~~

~~(a) Shall attempt to identify at least one potential qualified service company located within this state; and~~

~~(b) May consider whether and to what extent the companies to which the request for qualifications will be sent will use local contractors.~~

~~4. The local government shall use objective criteria to determine those companies that satisfy the requirements of qualified service companies. The objective criteria for evaluation must include the following areas as substantive factors to assess the capability of such companies:~~

~~(a) Design;~~

~~(b) Engineering;~~

~~(c) Installation;~~

~~(d) Maintenance and repairs associated with performance contracts;~~

~~(e) Experience in conversions to different sources of energy or fuel and other services related to operating cost savings measures provided that is done in association with a comprehensive energy, water or waste disposal cost savings retrofit;~~

~~(f) Monitoring projects after the projects are installed;~~

~~(g) Data collection and reporting of savings;~~

~~(h) Overall project experience and qualifications;~~

~~(i) Management capability;~~

~~(j) Ability to access long-term financing;~~

~~(k) Experience with projects of similar size and scope; and~~

~~(l) Such other factors determined by the local government to be relevant and appropriate to the ability of a company to perform the project.~~

~~➥ In determining whether a company satisfies the requirements of a qualified service company, the local government shall also consider the financial health of the company as evidenced by its financial statements and ratings and whether the company holds the appropriate licenses required for the design, engineering and construction to be completed.~~

~~5. The local government shall compile a list of those companies that it determines satisfy the requirements of qualified service companies.~~**]** If **[**~~the~~**]** ***a*** local government is interested in entering into a performance contract, the local government shall notify each appropriate qualified service company and coordinate an opportunity for each such qualified service company to:

(a) Perform a preliminary and comprehensive audit and assessment of all potential operating cost-savings measures that might be implemented within the buildings of the local government, including any operating cost-savings measures specifically requested by the local government; and

(b) Submit a proposal and make a related presentation to the local government for all such operating cost-savings measures that the qualified service company determines would be practicable to implement.

[~~6.~~**]** ***3.*** The local government shall:

(a) Evaluate the proposals and presentations made pursuant to subsection **[**~~5;~~**]** ***2;*** and

(b) Select a qualified service company,

➥ pursuant to the provisions of **[**~~this chapter for evaluating and awarding contracts.~~**]**

[~~7.~~**]** ***NRS 332.300 to 332.440, inclusive, and sections 2 to 6.5, inclusive, of this act.***

4. The local government may retain the professional services of a third-party consultant with the requisite technical expertise to assist the local government in evaluating the proposals and presentations pursuant to subsection 3. Such a third-party consultant must possess a business license issued pursuant to NRS 360.780 and any other applicable licenses issued

by a licensing board in this State in the same discipline in which the consultant will be advising the local government.

5. The qualified service company selected by the local government pursuant to subsection ~~[6]~~ ***3*** shall prepare a financial-grade operational audit. Except as otherwise provided in this subsection, the audit prepared by the qualified service company becomes, upon acceptance, a part of the final performance contract and the costs incurred by the qualified service company in preparing the audit shall be deemed to be part of the performance contract. If, after the audit is prepared, the local government decides not to execute the performance contract, the local government shall pay the qualified service company that prepared the audit the costs incurred by the qualified service company in preparing the audit if the local government has specifically appropriated money for that purpose.

~~[8.]~~ ***6.*** The local government shall retain the professional services of a third-party consultant with the requisite technical expertise to assist the local government in reviewing the operating cost-savings measures proposed by the qualified service company and may procure sufficient funding from the qualified service company, through negotiation, to pay for the third-party consultant. Such a third-party consultant must be ***licensed pursuant to chapter 625 of NRS and*** certified by the Association of Energy Engineers as a "Certified Energy Manager" or hold similar credentials from a comparable nationally recognized organization. A third-party consultant retained pursuant to this subsection shall work on behalf ***and for the benefit*** of the local government in coordination with the qualified service company.

Sec. 13. NRS 332.370 is hereby amended to read as follows:

332.370 1. A performance contract may be financed through a person other than the qualified service company.

2. A performance contract ~~[may]~~ ***must*** be structured ~~[as:~~

~~(a) A performance contract that guarantees]~~ ***to guarantee*** operating cost savings, which includes, without limitation, the design and installation of equipment, the operation and maintenance, if applicable, of any of the operating cost-savings measures and the guaranteed annual savings which must meet or exceed the total annual contract payments to be made by the local government, including any financing charges to be incurred by the local government over the life of the performance contract. The local government may require that these savings be verified annually or over a sufficient period that demonstrates savings.

~~[(b) A shared savings contract which includes provisions mutually agreed upon by the local government and qualified service company as to the negotiated rate of payments based upon operating cost savings and a stipulated maximum consumption level of energy or water, or both energy and water, over the life of the contract.]~~

Sec. 14. NRS 332.390 is hereby amended to read as follows:

332.390 ***1.*** If a performance contract entered into pursuant to NRS 332.300 to 332.440, inclusive, ***and sections 2 to*** ~~*[6,]*~~ ***6.5, inclusive, of***

this act requires the employment of skilled mechanics, skilled workmen, semiskilled mechanics, semiskilled workmen or unskilled labor to perform the performance contract, the performance contract must include a provision relating to the prevailing wage as required pursuant to NRS 338.020 to 338.090, inclusive.

2. Before a qualified service company enters into a performance contract pursuant to NRS 332.300 to 332.440, inclusive, and sections 2 to ~~[6,]~~ 6.5, inclusive, of this act, that exceeds $100,000, the qualified service company must furnish to the contracting body any bonds required pursuant to NRS 339.025. The provisions of chapter 339 of NRS apply to any performance contract described in this subsection.

Sec. 15. NRS 332.410 is hereby amended to read as follows:

332.410 A local government may reinvest any savings realized under a performance contract whenever practical into ***other*** operating cost-savings measures provided the local government ~~[is]~~ ***:***

1. Is satisfying all its other obligations under the performance contract ~~[.]~~ ***; and***

2. Complies with the requirements of NRS 332.300 to 332.440, inclusive, and sections 2 to ~~[6,]~~ 6.5, inclusive, of this act, when reinvesting the savings into other operating cost-savings measures.

Sec. 16. ~~[NRS 332.440 is hereby amended to read as follows:~~

~~332.440 —*1.* —A performance contract must include appropriate financial mechanisms determined to be necessary by the city or county treasurer, as appropriate, to guarantee that operating cost savings are realized by the local government if the actual cost savings do not meet the predicted cost savings.~~

~~***2. If the performance contract is an installment payment contract, the performance contract must authorize the local government to reduce the amount of payments if the actual operating cost savings do not meet the predicted operating cost savings.]*** **(Deleted by amendment.)**

Sec. 17. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 208.

Bill read second time.

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

Amendment No. 283.

AN ACT relating to cranes; revising requirements for certification as a crane operator to include a certain amount of crane-related experience; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires 1,000 hours of training prior to certification as either a mobile crane operator or tower crane operator. In addition, this bill requires that at least 500 of the 1,000 hours of training must be in tower crane operation in order to qualify for certification as a tower crane operator. (NRS 618.880)

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

Section 1. NRS 618.880 is hereby amended to read as follows:

618.880 1. The Division shall adopt regulations establishing standards and procedures for the operation of cranes, including, without limitation, regulations requiring the:

(a) Establishment and implementation of site safety plans and procedures for the erection and dismantling of tower cranes;

(b) Establishment of a clear zone around the erection, dismantling or other highly hazardous lifts with a crane;

(c) Annual certification of the mechanical lifting parts of the crane; and

(d) Certification of tower cranes each time a tower crane is erected and additional annual certifications of tower cranes while they continue to be in use.

2. Except as otherwise provided in subsection 3:

(a) The Division shall adopt regulations requiring the establishment and implementation of programs for the certification of all persons who operate:

(1) Tower cranes; or

(2) Mobile cranes having a usable boom length of 25 feet or greater or a maximum machine rated capacity of 15,000 pounds or greater.

(b) A person shall not operate a tower crane or a mobile crane described in subparagraph (2) of paragraph (a) unless the person holds certification as a crane operator issued pursuant to this subsection for the type of crane being operated.

(c) An applicant for certification as a crane operator must hold a certificate which:

(1) Is issued by an organization whose program of certification for crane operators:

(I) Is accredited by the National Commission for Certifying Agencies or an equivalent accrediting body approved by the Division; **[**~~or~~**]** ***and***

(II) Meets other criteria ***as may be*** established by the Division; **[**~~and~~**]**

(2) Certifies that the person has met the standards to be a crane operator established by **[**~~the American Society of Mechanical Engineers~~**]** ***ASME International,*** in its standards B30.3, B30.4 or B30.5 as adopted by regulation of the Division **[**~~.~~**]** ***;***

(3) Requires a minimum of 1,000 hours of crane-related experience or training during the 5-year period immediately preceding the issuance of a mobile crane operator certification; ~~*[and]*~~

(4) Requires a minimum of 1,000 hours of crane-related experience or training, of which a minimum of 500 hours is specific to tower crane operation, during the 5-year period immediately preceding the issuance of a tower crane operator certification ~~[.]~~ ***; and***

(5) Does not require an examination during which the applicant must operate a crane if the applicant:

(I) Is seeking recertification for the type of crane for which he currently holds a valid certification; and

(II) Has 1,000 hours of experience operating the type of crane for which he is seeking certification during the 5-year period immediately preceding the issuance of his recertification.

(d) The organization that issues a certification pursuant to this subsection is responsible for the verification of hours of experience or training required by this subsection.

3. The provisions of subsection 2 do not apply to a person who:

(a) Is an employee of a utility while the person is engaged in work for or at the direction of the utility;

(b) Operates an electric or utility line truck that is regulated pursuant to 29 C.F.R. § 1910.269 or 29 C.F.R. Part 1926, Subpart V; ~~[or]~~

(c) Operates an aerial or lifting device, whether or not self-propelled, that is designed and manufactured with the specific purpose of lifting one or more persons in a bucket or basket or on a ladder or platform and holding those persons in the lifted position while they perform tasks. Such devices include, without limitation:

(1) A bucket truck or lift;

(2) An aerial platform;

(3) A platform lift; or

(4) A scissors lift ~~[.]~~ ***; or***

(d) Operates a crane as a trainee under the direct supervision of an operator who has a valid certification in accordance with subsection 2 for the type of crane being operated by the trainee. As used in this paragraph, "direct supervision" means that the person who is supervising the trainee:

(1) Is in the immediate area of the trainee;

(2) Can see the trainee;

(3) Is able to communicate effectively with the trainee; and

(4) Has no duties other than to observe the operation of the crane by the trainee.

4. ***A certification used to satisfy the requirements of this section for a crane operator expires 5 years after the date that it is issued and may be renewed by providing proof deemed acceptable by the Division that the crane operator has fulfilled the requirements of subsection 2.***

5. As used in this section, "utility" means any public or private utility, whether or not the utility is subject to regulation by the Public Utilities Commission of Nevada, that provides, at wholesale or retail:

(a) Electric service;

(b) Gas service;

(c) Water or sewer service;

(d) Telecommunication service, including, without limitation, local exchange service, long distance service and personal wireless service; or

(e) Television service, including, without limitation, community antenna television, cable television and other video service.

Sec. 2. **Any person who obtains certification as a crane operator pursuant to paragraph (c) of subsection 2 of NRS 618.880 before July 1, 2011, is exempt from the requirements of subparagraphs (3) and (4) of paragraph (c) of subsection 2 of NRS 618.880, as amended by section 1 of this act, until the earlier of the date his certification expires or July 1, 2016.**

Sec. 3. **This act becomes effective upon the later of:**

1. July 1, 2011; or

2. The date the Governor declares that the Federal Government has adopted provisions governing the certification of crane operators.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 224.

Bill read second time.

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

Amendment No. 436.

AN ACT relating to insurance; revising provisions relating to unfair practices in settling insurance claims; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes it an unfair practice in settling insurance claims **, other than claims involving a policy of health insurance,** for an insurer to deny the payment of an amount due pursuant to a provision of first-party coverage under an insurance policy if that amount is not in dispute. This bill also authorizes an insured who is injured as a result of the denial of such payment to recover costs and reasonable attorney's fees under certain circumstances. (NRS 686A.310)

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

Section 1. NRS 686A.310 is hereby amended to read as follows:

686A.310 1. Engaging in any of the following activities is considered to be an unfair practice:

(a) Misrepresenting to insureds or claimants pertinent facts or insurance policy provisions relating to any coverage at issue.

(b) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

(c) Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies.

(d) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss requirements have been completed and submitted by the insured.

(e) Failing to effectuate prompt, fair and equitable settlements of claims in which liability of the insurer has become reasonably clear.

(f) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds, when the insureds have made claims for amounts reasonably similar to the amounts ultimately recovered.

(g) Attempting to settle a claim by an insured for less than the amount to which a reasonable person would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application.

(h) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of, the insured, his representative, agent or broker.

(i) Failing, upon payment of a claim, to inform insureds or beneficiaries of the coverage under which payment is made.

(j) Making known to insureds or claimants a practice of the insurer of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(k) Delaying the investigation or payment of claims by requiring an insured or a claimant, or the physician of either, to submit a preliminary claim report, and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

(l) Failing to settle claims promptly, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

(m) Failing to comply with the provisions of NRS 687B.310 to 687B.390, inclusive, or 687B.410.

(n) Failing to provide promptly to an insured a reasonable explanation of the basis in the insurance policy, with respect to the facts of the insured's claim and the applicable law, for the denial of his claim or for an offer to settle or compromise his claim.

(o) Advising an insured or claimant not to seek legal counsel.

(p) Misleading an insured or claimant concerning any applicable statute of limitations.

(q) ~~*[Denying]*~~ ***Except for claims involving a policy of health insurance, denying the payment of any amount due pursuant to a provision of first-party coverage under an insurance policy if that amount is not in dispute.***

2. In addition to any rights or remedies available to the Commissioner, an insurer is liable to its insured for any damages ***, including, without limitation, costs and reasonable attorney's fees,*** sustained by the insured as a result of the commission of any act set forth in subsection 1 as an unfair practice.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 256.

Bill read second time.

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

Amendment No. 403.

AN ACT relating to elections; revising provisions governing the dates for certain elections; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 8 of this bill changes the date of the primary election from the twelfth Tuesday before the general election in each even-numbered year to the ~~[first]~~ **second** Tuesday ~~[after the first Monday]~~ in June of each even-numbered year. (NRS 293.175) As a result of changing the date of the primary election, **sections 3-7 and 9-17** of this bill amend various other dates relating to elections, such as the date for filing declarations of candidacy.

Existing law authorizes the governing body of a city incorporated pursuant to general law to choose by ordinance whether to: (1) hold city elections on the statewide election cycle; or (2) hold a primary city election on the first Tuesday after the first Monday in April and hold a general city election on the first Tuesday after the first Monday in June of odd-numbered years. (NRS 293C.115, 293C.140, 293C.145, 293C.175) **Sections 19-22** of this bill require that cities be on the statewide election cycle as of the year 2012. **Sections 1, 2, 18 and** ~~[23]~~ **21-29** of this bill amend various other dates relating to city elections, such as the date for filing declarations of candidacy. **Section 57** of this bill provides that officials of affected cities who are elected in 2009 will hold office until the city elections are held in 2012. The officials of such cities who are elected in 2011 will hold office until the city elections are held in 2014.

Certain cities that are created by charters hold general municipal elections in June of odd-numbered years. (Boulder City, Caliente, Elko, Henderson, Las Vegas, North Las Vegas and Yerington) **Sections 30-56** of this bill amend the charters of those cities to require that the cities hold primary and general city elections on the same dates as the statewide primary and general

elections. The terms of office of officials of such cities who were elected in 2007 will be extended until the city elections are held in 2012.

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

Section 1. NRS 293.059 is hereby amended to read as follows:

293.059 "General city election" means an election held pursuant to NRS ~~[293C.115,]~~ 293C.140 or 293C.145. The term includes a general municipal election held pursuant to the provisions of a special charter of an incorporated city.

Sec. 2. NRS 293.079 is hereby amended to read as follows:

293.079 "Primary city election" means an election held pursuant to NRS ~~[293C.115 or]~~ 293C.175. The term includes a primary municipal election held pursuant to the provisions of a special charter of an incorporated city.

Sec. 3. NRS 293.128 is hereby amended to read as follows:

293.128 1. To qualify as a major political party, any organization must, under a common name:

(a) On January 1 preceding any primary election, have been designated as a political party on the applications to register to vote of at least 10 percent of the total number of registered voters in this State; or

(b) File a petition with the Secretary of State not later than the last Friday in ~~[April]~~ ***February*** before any primary election signed by a number of registered voters equal to or more than 10 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

2. If a petition is filed pursuant to paragraph (b) of subsection 1, the names of the voters need not all be on one document, but each document of the petition must be verified by the circulator thereof to the effect that the signers are registered voters of this State according to his best information and belief and that the signatures are genuine and were signed in his presence. Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document. The documents which are circulated for signature must then be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last Friday in ~~[April]~~ ***February*** preceding a primary election.

3. In addition to the requirements set forth in subsection 1, each organization which wishes to qualify as a political party must file with the Secretary of State a certificate of existence which includes the:

(a) Name of the political party;

(b) Names and addresses of its officers;

(c) Names of the members of its executive committee; and

(d) Name of the person who is authorized by the party to act as registered agent in this State.

4. A political party shall file with the Secretary of State an amended certificate of existence within 5 days after any change in the information contained in the certificate.

Sec. 4. NRS 293.165 is hereby amended to read as follows:

293.165 1. Except as otherwise provided in NRS 293.166, a vacancy occurring in a major or minor political party nomination for a partisan office may be filled by a candidate designated by the party central committee of the county or State, as the case may be, of the major political party or by the executive committee of the minor political party subject to the provisions of subsections 4 and 5.

2. A vacancy occurring in a nonpartisan nomination after the close of filing and on or before 5 p.m. of the second Tuesday in ~~[June]~~ ***April*** must be filled by filing a nominating petition that is signed by registered voters of the State, county, district or municipality who may vote for the office in question. The number of registered voters who sign the petition must not be less than 1 percent of the number of persons who voted for the office in question in the State, county, district or municipality at the last preceding general election. The petition must be filed not earlier than the first Tuesday in ~~[May]~~ ***March*** and not later than the fourth Tuesday in ~~[June.]~~ ***April.*** The petition may consist of more than one document. Each document must bear the name of one county and must be signed only by a person who is a registered voter of that county and who may vote for the office in question. Each document of the petition must be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, to the county clerk of the county named on the document. A candidate nominated pursuant to the provisions of this subsection:

(a) Must file a declaration of candidacy or acceptance of candidacy and pay the statutory filing fee on or before the date the petition is filed; and

(b) May be elected only at a general election, and his name must not appear on the ballot for a primary election.

3. A vacancy occurring in a nonpartisan nomination after 5 p.m. of the second Tuesday in ~~[June]~~ ***April*** and on or before 5 p.m. on the first Tuesday after the primary election must be filled by the person who receives the next highest vote for the nomination in the primary.

4. No change may be made on the ballot for the general election after 5 p.m. on the first Tuesday after the primary election **.** ~~[of the year in which the general election is held.]~~ If a nominee dies after that time and date, his name must remain on the ballot for the general election and, if elected, a vacancy exists.

5. All designations provided for in this section must be filed on or before 5 p.m. on the first Tuesday after the primary election. In each case, the statutory filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on the date the designation is filed.

Sec. 5. NRS 293.1715 is hereby amended to read as follows:

293.1715 1. The names of the candidates for partisan office of a minor political party must not appear on the ballot for a primary election.

2. The names of the candidates for partisan office of a minor political party must be placed on the ballot for the general election if the party has filed a certificate of existence and a list of its candidates for partisan office pursuant to the provisions of NRS 293.1725 with the Secretary of State and:

(a) At the last preceding general election, the minor political party polled for any of its candidates for partisan office a number of votes equal to or more than 1 percent of the total number of votes cast for the offices of Representative in Congress;

(b) On January 1 preceding a primary election, the minor political party has been designated as the political party on the applications to register to vote of at least 1 percent of the total number of registered voters in this State; or

(c) Not later than the second Friday in ~~[August]~~ ***June*** preceding the general election, files a petition with the Secretary of State which is signed by a number of registered voters equal to at least 1 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

3. The name of a candidate for partisan office for a minor political party other than a candidate for the office of President or Vice President of the United States must be placed on the ballot for the general election if the party has filed:

(a) A certificate of existence;

(b) A list of candidates for partisan office containing the name of the candidate pursuant to the provisions of NRS 293.1725 with the Secretary of State; and

(c) Not earlier than the first Monday in ~~[May]~~ ~~*[March]*~~ ***April*** preceding the general election and not later than 5 p.m. on the ~~[second]~~ ***first*** Friday after the first Monday in ~~[May,]~~ ~~*[March,]*~~ ***April,*** a petition on behalf of the candidate with the Secretary of State containing not less than:

(1) Two hundred fifty signatures of registered voters if the candidate is to be nominated for a statewide office; or

(2) One hundred signatures of registered voters if the candidate is to be nominated for any office except a statewide office.

➥ A minor political party that places names of one or more candidates for partisan office on the ballot pursuant to this subsection may also place the names of one or more candidates for partisan office on the ballot pursuant to subsection 2.

4. The name of only one candidate of each minor political party for each partisan office may appear on the ballot for a general election.

5. A minor political party must file a copy of the petition required by paragraph (c) of subsection 2 or paragraph (c) of subsection 3 with the Secretary of State before the petition may be circulated for signatures.

Sec. 6. NRS 293.1725 is hereby amended to read as follows:

293.1725 1. Except as otherwise provided in subsection ~~[4,]~~ ***6,*** a minor political party that wishes to place its candidates for partisan office on the ballot for a general election and:

(a) Is entitled to do so pursuant to paragraph (a) or (b) of subsection 2 of NRS 293.1715;

(b) Files ***or will file*** a petition pursuant to paragraph (c) of subsection 2 of NRS 293.1715; or

(c) Whose candidates are entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715,

➥ must file with the Secretary of State a list of its candidates for partisan office .

2. The list of candidates for partisan office required pursuant to subsection 1 must be filed with the Secretary of State:

(a) If the minor political party is described in paragraph (a) or (b) of subsection 1, not earlier than the first Monday in ~~[May]~~ ***March*** preceding the election nor later than 5 p.m. on the ~~[second]~~ ***first*** Friday after the first Monday in ~~[May.]~~ ***March. The list may be amended not later than 5 p.m. on the first Friday after the first Monday in March.***

(b) If the minor political party is described in paragraph (c) of subsection 1, not earlier than the first Monday in April preceding the election nor later than 5 p.m. on the first Friday after the first Monday in April. The list may be amended not later than 5 p.m. on the first Friday after the first Monday in April.

3. The list must be signed by the person so authorized in the certificate of existence of the minor political party before a notary public or other person authorized to take acknowledgments. The Secretary of State shall strike from the list each candidate who is not entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715 if the minor political party is not entitled to place candidates on the ballot pursuant to subsection 2 of NRS 293.1715. ~~[The list may be amended not later than 5 p.m. on the second Friday after the first Monday in]~~ ~~[~~May.~~]~~ ~~*[March.*~~

~~2.]~~ ***4.*** The Secretary of State shall immediately forward a certified copy of the list of candidates for partisan office of each minor political party to the filing officer with whom each candidate must file his declaration of candidacy.

~~[3.]~~ ***5.*** Each candidate on the list must file his declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the date on which the list of candidates for partisan office of his minor political party is filed with the Secretary of State nor later than 5 p.m. on the ~~[second]~~ ***first*** Friday after the first Monday in ~~[May.]~~ ~~*[March.]*~~

~~[4.]~~ ***:***

(a) If the list is filed pursuant to paragraph (a) of subsection 2, March.

(b) If the list is filed pursuant to paragraph (b) of subsection 2, April.

6. A minor political party that wishes to place candidates for the offices of President and Vice President of the United States on the ballot and has

qualified to place the names of its candidates for partisan office on the ballot for the general election pursuant to subsection 2 of NRS 293.1715 must file with the Secretary of State a certificate of nomination for these offices not later than the first Tuesday in September.

Sec. 7. NRS 293.174 is hereby amended to read as follows:

293.174 1. If the qualification of a minor political party is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the third Friday in ~~[August.]~~ ***June.*** Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the third Friday in ~~[August.]~~ ***June.*** A challenge pursuant to this subsection must be filed with the First Judicial District Court if the petition was filed with the Secretary of State.

2. If the qualification of a candidate of a minor political party other than a candidate for the office of President or Vice President of the United States is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in ~~[May.]~~ ~~*[March.]*~~ ***April.*** Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in ~~[May.]~~ ~~*[March.]*~~ ***April.*** A challenge pursuant to this subsection must be filed with:

(a) The First Judicial District Court; or

(b) If a candidate who filed a declaration of candidacy with a county clerk is challenged, the district court for the county where the declaration of candidacy was filed.

Sec. 8. NRS 293.175 is hereby amended to read as follows:

293.175 1. The primary election must be held on the ~~[12th Tuesday before the general election]~~ ~~*[first]*~~ ***second Tuesday*** ~~*[after the first Monday]*~~ in ***June of*** each even-numbered year.

2. Candidates for partisan office of a major political party and candidates for nonpartisan office must be nominated at the primary election.

3. Candidates for partisan office of a minor political party must be nominated in the manner prescribed pursuant to NRS 293.171 to 293.174, inclusive.

4. Independent candidates for partisan office must be nominated in the manner provided in NRS 293.200.

5. The provisions of NRS 293.175 to 293.203, inclusive, do not apply to:

(a) Special elections to fill vacancies.

(b) The nomination of the officers of incorporated cities.

(c) The nomination of district officers whose nomination is otherwise provided for by statute.

Sec. 9. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:

(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in January; and

(b) For all other candidates, the first Monday in ~~[May]~~ ***March*** of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in ~~[May.]~~ ***March.***

2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF .... FOR THE OFFICE OF .....

State of Nevada

County of .....

For the purpose of having my name placed on the official ballot as a candidate for the ..... Party nomination for the office of ……, I, the undersigned ……., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……., in the City or Town of ……., County of ……., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am registered as a member of the ..... Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since September 1 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the ..... Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office

Subscribed and sworn to before me
this ... day of the month of ... of the year ...

.....
Notary Public or other person
authorized to administer an oath

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF .... FOR THE OFFICE OF .....

State of Nevada

County of .....

For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……, in the City or Town of ……., County of ……, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this ... day of the month of ... of the year ...

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where he actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at his specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.

6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether he has had his civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.

7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 10. NRS 293.180 is hereby amended to read as follows:

293.180 1. Ten or more registered voters may file a certificate of candidacy designating any registered voter as a candidate for:

(a) Their major political party's nomination for any partisan elective office, or as a candidate for nomination for any nonpartisan office other than a judicial office, not earlier than the first Monday in ~~[~~April~~]~~ ***February*** of the year in which the election is to be held nor later than 5 p.m. on the first Friday in ~~[~~May,~~]~~ ***March;*** or

(b) Nomination for a judicial office, not earlier than the first Monday in December of the year immediately preceding the year in which the election is to be held nor later than 5 p.m. on the first Friday in January of the year in which the election is to be held.

2. When the certificate has been filed, the officer in whose office it is filed shall notify the person named in the certificate. If the person named in the certificate files an acceptance of candidacy and pays the required fee, as provided by law, he is a candidate in the primary election in like manner as if he had filed a declaration of candidacy.

3. If a certificate of candidacy relates to a partisan office, all of the signers must be of the same major political party as the candidate designated.

Sec. 11. NRS 293.200 is hereby amended to read as follows:

293.200 1. An independent candidate for partisan office must file with the appropriate filing officer:

(a) A copy of the petition of candidacy that he intends to subsequently circulate for signatures. The copy must be filed not earlier than the January 2 preceding the date of the election and not later than 25 working days before the last day to file the petition pursuant to subsection 4.

(b) Either of the following:

(1) A petition of candidacy signed by a number of registered voters equal to at least 1 percent of the total number of ballots cast in:

(I) This State for that office at the last preceding general election in which a person was elected to that office, if the office is a statewide office;

(II) The county for that office at the last preceding general election in which a person was elected to that office, if the office is a county office; or

(III) The district for that office at the last preceding general election in which a person was elected to that office, if the office is a district office.

(2) A petition of candidacy signed by 250 registered voters if the candidate is a candidate for statewide office, or signed by 100 registered voters if the candidate is a candidate for any office other than a statewide office.

2. The petition may consist of more than one document. Each document must bear the name of the county in which it was circulated, and only registered voters of that county may sign the document. If the office is not a statewide office, only the registered voters of the county, district or municipality in question may sign the document. The documents that are circulated for signature in a county must be submitted to that county clerk for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last day to file the petition pursuant to subsection 4. Each person who signs the petition shall add to his signature the address of the place at which he actually resides, the date that he signs the petition and the name of the county where he is registered to vote. The person who circulates each document of the petition shall sign an affidavit attesting that the signatures on the document are genuine to the best of his knowledge and belief and were signed in his presence by persons registered to vote in that county.

3. The petition of candidacy may state the principle, if any, which the person qualified represents.

4. Petitions of candidacy must be filed not earlier than the first Monday in ~~[~~May~~]~~ ~~*[March]*~~ ***April*** preceding the general election and not later than 5 p.m. on the ~~[second]~~ ***first*** Friday after the first Monday in ~~[~~May.~~]~~ ~~*[March.]*~~ ***April.***

5. No petition of candidacy may contain the name of more than one candidate for each office to be filled.

6. A person may not file as an independent candidate if he is proposing to run as the candidate of a political party.

7. The names of independent candidates must be placed on the general election ballot and must not appear on the primary election ballot.

8. If the candidacy of any person seeking to qualify pursuant to this section is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in ~~[~~May.~~]~~ ~~*[March.]*~~ ***April.*** Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in ~~[~~May.~~]~~ ~~*[March.]*~~ ***April.***

9. Any challenge pursuant to subsection 8 must be filed with:

(a) The First Judicial District Court if the petition of candidacy was filed with the Secretary of State.

(b) The district court for the county where the petition of candidacy was filed if the petition was filed with a county clerk.

10. An independent candidate for partisan office must file a declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the first Monday in ~~[May]~~ ~~*[March]*~~ ***April*** of the year in which the election is held nor later than 5 p.m. on the ~~[second]~~ ***first*** Friday after the first Monday in ~~[May.]~~ ~~*[March.]*~~ ***April.***

Sec. 12. NRS 293.205 is hereby amended to read as follows:

293.205 1. Except as otherwise provided in NRS 293.208, on or before the third Wednesday in ~~[May]~~ ***March*** of every even-numbered year, the county clerk shall establish election precincts, define the boundaries thereof, abolish, alter, consolidate and designate precincts as public convenience, necessity and economy may require.

2. The boundaries of each election precinct must follow visible ground features or extensions of visible ground features, except where the boundary coincides with the official boundary of the State or a county or city.

3. Election precincts must be composed only of contiguous territory.

4. As used in this section, "visible ground feature" includes a street, road, highway, river, stream, shoreline, drainage ditch, railroad right-of-way or any other physical feature which is clearly visible from the ground.

Sec. 13. NRS 293.206 is hereby amended to read as follows:

293.206 1. On or before the last day in ~~[May]~~ ***March*** of every even-numbered year, the county clerk shall provide the Secretary of State and the Director of the Legislative Counsel Bureau with a copy or electronic file of a map showing the boundaries of all election precincts in the county.

2. If the Secretary of State determines that the boundaries of an election precinct do not comply with the provisions of NRS 293.205, he must provide the county clerk with a written statement of noncompliance setting forth the reasons the precinct is not in compliance. Within 15 days after receiving the notice of noncompliance, the county clerk shall make any adjustments to the boundaries of the precinct which are required to bring the precinct into compliance with the provisions of NRS 293.205 and he shall submit a corrected copy or electronic file of the precinct map to the Secretary of State and the Director of the Legislative Counsel Bureau.

3. If the initial or corrected election precinct map is not filed as required pursuant to this section or the county clerk fails to make the necessary changes to the boundaries of an election precinct pursuant to subsection 2, the Secretary of State may establish appropriate precinct boundaries in compliance with the provisions of NRS 293.205 to 293.213, inclusive. If the Secretary of State revises the map pursuant to this subsection, he shall submit a copy or electronic file of the revised map to the Director of the Legislative Counsel Bureau and the appropriate county clerk.

4. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.

Sec. 14. NRS 293.208 is hereby amended to read as follows:

293.208 1. Except as otherwise provided in subsections 2, 3 and 5 and in NRS 293.206, no election precinct may be created, divided, abolished or consolidated, or the boundaries thereof changed, during the period between the third Wednesday in ~~[May]~~ ***March*** of any year whose last digit is 6 and the time when the Legislature has been redistricted in a year whose last digit is 1, unless the creation, division, abolishment or consolidation of the precinct, or the change in boundaries thereof, is:

(a) Ordered by a court of competent jurisdiction;

(b) Required to meet objections to a precinct by the Attorney General of the United States pursuant to the Voting Rights Act of 1965, 42 U.S.C. §§ 1971 and 1973 et seq., and any amendments thereto;

(c) Required to comply with subsection 2 of NRS 293.205;

(d) Required by the incorporation of a new city; or

(e) Required by the creation of or change in the boundaries of a special district.

➥ As used in this subsection, "special district" means any general improvement district or any other quasi-municipal corporation organized under the local improvement and service district laws of this State as enumerated in title 25 of NRS which is required by law to hold elections or any fire protection district which is required by law to hold elections.

2. If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.

3. A new election precinct may be established at any time if it lies entirely within the boundaries of any existing precinct.

4. If a change in the boundaries of an election precinct is made pursuant to this section during the time specified in subsection 1, the county clerk must:

(a) Within 15 days after the change to the boundary of a precinct is established by the county clerk or ordered by a court, send to the Director of the Legislative Counsel Bureau and the Secretary of State a copy or electronic file of a map showing the new boundaries of the precinct; and

(b) Maintain in his office an index providing the name of the precinct and describing all changes which were made, including any change in the name of the precinct and the name of any new precinct created within the boundaries of an existing precinct.

5. Cities of population categories two and three are exempt from the provisions of subsection 1.

6. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.

Sec. 15. NRS 293.368 is hereby amended to read as follows:

293.368 1. Whenever a candidate whose name appears upon the ballot at a primary election dies after 5 p.m. of the second Tuesday in ~~[June,]~~ ***April,*** his name must remain on the ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.

2. If the deceased candidate on the ballot at the primary election receives the number of votes required to receive the nomination to the office for which he was a candidate, except as otherwise provided in subsection 3 of NRS 293.165, he shall be deemed nominated and ~~[there shall be a]~~ ***the*** vacancy in the nomination ~~[that]~~ must be filled as provided in NRS 293.165 or 293.166. If the deceased person was a candidate for a nonpartisan office, the nomination must be filled pursuant to subsection 2 of NRS 293.165.

3. Whenever a candidate whose name appears upon the ballot at a general election dies after 5 p.m. on the first Tuesday after the primary election, the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.

4. If the deceased candidate on the ballot at the general election receives the majority of the votes cast for the office, he shall be deemed elected and the office to which he was elected shall be deemed vacant at the beginning of the term for which he was elected. The vacancy thus created must be filled in the same manner as if the candidate had died after taking office for that term.

Sec. 16. NRS 293.481 is hereby amended to read as follows:

293.481 1. Except as otherwise provided in subsection 2, every governing body of a political subdivision, public or quasi-public corporation, or other local agency authorized by law to submit questions to the qualified electors or registered voters of a designated territory, when the governing body decides to submit a question:

(a) At a general election, shall provide to each county clerk within the designated territory on or before the third Monday in July preceding the election:

(1) A copy of the question, including an explanation of the question;

(2) Except as otherwise provided in NRS 295.121 or 295.217, arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(b) At a primary election, shall provide to each county clerk within the designated territory on or before the second Friday after the first Monday in ~~[May]~~ ***March*** preceding the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(c) At any election other than a primary or general election at which the county clerk gives notice of the election or otherwise performs duties in connection therewith other than the registration of electors and the making of records of registered voters available for the election, shall provide to each county clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(d) At any city election at which the city clerk gives notice of the election or otherwise performs duties in connection therewith, shall provide to the city clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

2. A question may be submitted after the dates specified in subsection 1 if the question is expressly privileged or required to be submitted pursuant to the provisions of Article 19 of the Constitution of the State of Nevada, or pursuant to the provisions of chapter 295 of NRS or any other statute except NRS 293.482, 354.59817, 354.5982, 387.3285 or 387.3287 or any statute that authorizes the governing body to issue bonds upon the approval of the voters.

3. A question that is submitted pursuant to subsection 1 may be withdrawn if the governing body provides notification to each of the county or city clerks within the designated territory of its decision to withdraw the particular question on or before the same dates specified for submission pursuant to paragraph (a), (b), (c) or (d) of subsection 1, as appropriate.

4. A county or city clerk:

(a) Shall assign a unique identification number to a question submitted pursuant to this section; and

(b) May charge any political subdivision, public or quasi-public corporation, or other local agency which submits a question a reasonable fee sufficient to pay for the increased costs incurred in including the question, explanation, arguments and description of the anticipated financial effect on the ballot.

Sec. 17. NRS 293B.354 is hereby amended to read as follows:

293B.354 1. The county clerk shall, not later than ~~[June]~~ ***April*** 15 of each year in which a general election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of ballots at a polling place, receiving center or central counting place.

2. The city clerk shall, not later than January 1 of each year in which a general city election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of the ballots at a polling place, receiving center or central counting place.

3. Each plan must include:

(a) The location of the central counting place and of each polling place and receiving center;

(b) A procedure for the establishment of areas within each polling place and receiving center and the central counting place from which members of the general public may observe the activities set forth in subsections 1 and 2;

(c) The requirements concerning the conduct of the members of the general public who observe the activities set forth in subsections 1 and 2; and

(d) Any other provisions relating to the accommodation of members of the general public who observe the activities set forth in subsections 1 and 2 which the county or city clerk considers appropriate.

Sec. 18. NRS 293B.354 is hereby amended to read as follows:

293B.354 1. The county clerk shall, not later than April 15 of each year in which a general election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of ballots at a polling place, receiving center or central counting place.

2. The city clerk shall, not later than ~~[January 1]~~ ***April 15*** of each year in which a general city election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of the ballots at a polling place, receiving center or central counting place.

3. Each plan must include:

(a) The location of the central counting place and of each polling place and receiving center;

(b) A procedure for the establishment of areas within each polling place and receiving center and the central counting place from which members of the general public may observe the activities set forth in subsections 1 and 2;

(c) The requirements concerning the conduct of the members of the general public who observe the activities set forth in subsections 1 and 2; and

(d) Any other provisions relating to the accommodation of members of the general public who observe the activities set forth in subsections 1 and 2 which the county or city clerk considers appropriate.

Sec. 19. NRS 293C.115 is hereby amended to read as follows:

293C.115 ~~[1.]~~ The governing body of a city incorporated pursuant to general law ~~[may]~~ ***shall*** by ordinance provide for a primary city election and a general city election on ~~[~~**.**

~~(a) The dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS; or~~

~~(b) The~~**]** ***the*** dates set forth for primary city elections and general city elections pursuant to the provisions of this chapter.

~~[2. If a governing body of a city adopts an ordinance pursuant to paragraph (a) of subsection 1, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165, and in NRS 293.175, 293.177, 293.345 and 293.368 apply for purposes of conducting the primary city elections and general city elections of the city.~~

~~3. If a governing body of a city adopts an ordinance pursuant to subsection 1:~~

~~(a) The term of office of any elected city official may not be shortened as a result of the ordinance; and~~

~~(b) Each elected city official holds office until the end of his term and until his successor has been elected and qualified.]~~

Sec. 20. NRS 293C.140 is hereby amended to read as follows:

293C.140 1. ~~[Except as otherwise provided in NRS 293C.115, a]~~ ***A*** general city election must be held in each city of population categories one and two on the first Tuesday after the first Monday in ~~[June]~~ ***November*** of the first ~~[odd-numbered]~~ ***even-numbered*** year after incorporation, and ~~[on the same day every]~~ ***at each successive interval of*** 2 years ***,*** ~~[thereafter as determined by law, ordinance or resolution,]~~ at which time there must be elected the elective city officers, the offices of which are required next to be filled by election. All candidates, except as otherwise provided in NRS 266.220, at the general city election must be voted upon by the electors of the city at large.

2. ~~[Unless the terms of office of city councilmen are extended by an ordinance adopted pursuant to NRS 293C.115, the]~~ ***The*** terms of office of city councilmen are 4 years, which terms must be staggered. The councilmen elected to office immediately after incorporation shall decide, by lot, among themselves which of their offices expire at the next general city election, and thereafter the terms of office must be 4 years ***.*** ~~[unless the terms are extended by an ordinance adopted pursuant to NRS 293C.115.]~~

Sec. 21. NRS 293C.145 is hereby amended to read as follows:

293C.145 1. ~~[Except as otherwise provided in NRS 293C.115, a]~~ ***A*** general city election must be held in each city of population category three on the first Tuesday after the first Monday in ~~[June]~~ ***November*** of the first ~~[odd-numbered]~~ ***even-numbered*** year after incorporation, and ~~[on the same day every]~~ ***at each successive interval of*** 2 years ***.*** ~~[thereafter, as determined by ordinance.]~~

2. There must be one mayor and three or five councilmen, as the city council shall provide ~~[,]~~ by ordinance, for each city of population category three. ~~[Unless the terms of office of the mayor and the councilmen are extended by an ordinance adopted pursuant to NRS 293C.115, the]~~ ***The*** terms of office of the mayor and the councilmen are 4 years, which terms must be staggered. The mayor and councilmen elected to office immediately after incorporation shall decide, by lot, among themselves which two of their offices expire at the next general city election, and thereafter the terms of office must be 4 years **.** ~~[unless the terms are extended by an ordinance adopted pursuant to NRS 293C.115.]~~ If a city council thereafter increases the number of councilmen, it shall, by lot, stagger the initial terms of the additional members.

3. ~~[Except as otherwise provided in NRS 293C.115, a]~~ ***A*** candidate for any office to be voted for at the general city election must file a declaration of candidacy with the city clerk not ~~[less than 60 days nor more than 70 days before the day of the general city election.]~~ ***earlier than the first Monday in March preceding the general election and not later than 5 p.m. on the second Friday after the first Monday in March.*** The city clerk shall charge and collect from the candidate and the candidate must pay to the city clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the city council by ordinance or resolution.

4. Candidates for mayor must be voted upon by the electors of the city at large. Candidates for councilmen must be voted upon by the electors of their respective wards to represent the wards in which they reside or by the electors of the city at large in accordance with the provisions of chapter 266 of NRS.

Sec. 22. NRS 293C.175 is hereby amended to read as follows:

293C.175 1. ~~[Except as otherwise provided in NRS 293C.115, a]~~ ***A*** primary city election must be held in each city of population category one, and in each city of population category two that has so provided by ordinance, on the ~~[first]~~ ***second*** Tuesday ~~[after the first Monday]~~ in ~~[April]~~ ***June*** of every year in which a general city election is to be held, at which time there must be nominated candidates for offices to be voted for at the next general city election.

2. ~~[Except as otherwise provided in NRS 293C.115, a]~~ ***A*** candidate for any office to be voted for at the primary city election must file a declaration of candidacy with the city clerk not ~~[less than 60 days nor more than 70 days before the date of the primary city election.]~~ ***earlier than the first Monday in March preceding the general election and not later than 5 p.m. on the second Friday after the first Monday in March.*** The city clerk shall charge and collect from the candidate and the candidate must pay to the city clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the governing body of the city by ordinance or resolution. The filing fees collected by the city clerk must be deposited to the credit of the general fund of the city.

3. All candidates, except as otherwise provided in NRS 266.220, must be voted upon by the electors of the city at large.

4. If, in a primary city election held in a city of population category one or two, one candidate receives more than a majority of votes cast in that election for the office for which he is a candidate, his name alone must be placed on the ballot for the general city election. If, in the primary city election, no candidate receives a majority of votes cast in that election for the office for which he is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general city election.

Sec. 23. NRS 293C.185 is hereby amended to read as follows:

293C.185 1. Except as otherwise provided in NRS ~~[293C.115 and]~~ 293C.190, a name may not be printed on a ballot to be used at a primary city election ~~[,]~~ unless the person named has filed a declaration of candidacy or an acceptance of candidacy and has paid the fee established by the governing body of the city not earlier than ~~[70 days before the primary city election and not later than 5 p.m. on the 60th day before the primary city election.]~~ ***the first Monday in March preceding the general election and not later than 5 p.m. on the second Friday after the first Monday in March.***

2. A declaration of candidacy required to be filed by this section must be in substantially the following form:

DECLARATION OF CANDIDACY OF .... FOR THE OFFICE OF .....

State of Nevada

City of.....

For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, ..., the undersigned do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ....., in the City or Town of ....., County of ....., State of Nevada; that my actual, as opposed to constructive, residence in the city, township or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a candidate at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to,

complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this ... day of the month of ... of the year ...

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate that must be included in the declaration or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where he actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the city clerk as his agent for service of process for the purposes of a proceeding pursuant to NRS 293C.186. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the city clerk duplicate copies of the process. The city clerk shall immediately send, by registered or certified mail, one of the copies to the candidate at his specified address, unless the candidate has designated in writing to the city clerk a different address for

that purpose, in which case the city clerk shall mail the copy to the last address so designated.

6. If the city clerk receives credible evidence indicating that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the city clerk:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether he has had his civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the city attorney.

7. The receipt of information by the city attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293C.186. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the city clerk must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 24. NRS 293C.190 is hereby amended to read as follows:

293C.190 1. ~~[~~Except as otherwise provided in NRS 293C.115, a~~]~~ ***A*** vacancy occurring in a nomination for a city office after the close of filing and on or before 5 p.m. of the ~~[~~first~~]~~ ***second*** Tuesday ~~[~~after the first Monday in March in a year in which a general city election is held~~]~~ ***in April*** must be filled by filing a nominating petition that is signed by at least 1 percent of the persons who are registered to vote and who voted for that office at the last preceding general city election. ~~[~~Except as otherwise provided in NRS 293C.115, the~~]~~ ***The*** petition must be filed not earlier than the ~~[~~third~~]~~ ***first*** Tuesday in ~~[~~February~~]~~ ***March*** and not later than the ~~[~~third~~]~~ ***fourth*** Tuesday ~~[~~after the third Monday~~]~~ in ~~[~~March.~~]~~ ***April.*** A candidate nominated pursuant to the provisions of this subsection may be elected only at a general city election, and his name must not appear on the ballot for a primary city election.

2. ~~[~~Except as otherwise provided in NRS 293C.115, a~~]~~ ***A*** vacancy occurring in a nomination for a city office after 5 p.m. of the ~~[~~first~~]~~ ***second*** Tuesday ~~[~~after the first Monday in March~~]~~ ***in April*** and on or before 5 p.m. of the ~~[~~second~~]~~ ***first*** Tuesday after the ~~[~~second Monday in April~~]~~ ***primary city election*** must be filled by the person who received the next highest vote for the nomination in the primary city election.

3. ~~[~~Except to place a candidate nominated pursuant to subsection 1 on the ballot and except as otherwise provided in NRS 293C.115, no~~]~~ ***No*** change may be made on the ballot for the general city election after 5 p.m. ~~[~~of~~]~~ ***on*** the ~~[~~second~~]~~ ***first*** Tuesday after the ~~[~~second Monday in April of the year in which the general~~]~~ ***primary*** city election **.** ~~[~~is held.~~]~~ If a nominee dies after

that time and date, his name must remain on the ballot for the general city election and, if elected, a vacancy exists.

4. [Except as otherwise provided in NRS 293C.115, all] ***All*** designations provided for in this section must be filed on or before 5 p.m. on the [second] ***first*** Tuesday after the [second Monday in April of the year in which the general] ***primary*** city election **.** [is held.] The filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on that date.

Sec. 25. NRS 293C.291 is hereby amended to read as follows:

293C.291 If a candidate whose name appears on the ballot at a primary city election or general city election dies after the applicable date set forth in [:

1.] NRS 293C.370 [; or

2. NRS 293.368, if the governing body of the city has adopted an ordinance pursuant to paragraph (a) of subsection 1 of NRS 293C.115,

➥] but before the time of the closing of the polls on the day of the election, the city clerk shall post a notice of the candidate's death at each polling place where the candidate's name will appear on the ballot for the primary city election or general city election.

Sec. 26. NRS 293C.345 is hereby amended to read as follows:

293C.345 [Except as otherwise provided in NRS 293C.115, the] ***The*** city clerk shall mail to each registered voter in each mailing precinct and in each absent ballot mailing precinct, before 5 p.m. on the third Thursday in [March] ***May*** and before 5 p.m. on the fourth Tuesday in [May] ***October*** of any year in which a general city election is held, an official mailing ballot to be voted by him at the election.

Sec. 27. NRS 293C.370 is hereby amended to read as follows:

293C.370 [Except as otherwise provided in NRS 293C.115:]

1. Whenever a candidate whose name appears upon the ballot at a primary city election dies after 5 p.m. of the [first] ***second*** Tuesday [after the first Monday] in [March,] ***April,*** his name must remain on the ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.

2. If the deceased candidate on the ballot at the primary city election receives the number of votes required to receive the nomination to the office for which he was a candidate, the nomination is filled as provided in subsection 2 of NRS 293C.190.

3. Whenever a candidate whose name appears upon the ballot at a general city election dies after 5 p.m. of the [second] ***first*** Tuesday after the [second Monday in April,] ***primary city election,*** the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.

4. If the deceased candidate on the ballot at the general election receives the majority of the votes cast for the office, he shall be deemed elected and the office to which he was elected shall be deemed vacant at the beginning of

the term for which he was elected. The vacancy created must be filled in the same manner as if the candidate had died after taking office for that term.

Sec. 28. NRS 266.405 is hereby amended to read as follows:

266.405 1. In addition to the mayor and city council, there must be in each city of population category one or two a city clerk, a city treasurer ~~[,]~~ or **,** if those offices are combined pursuant to subsection 4, a city clerk and treasurer, a municipal judge and a city attorney. The offices of city clerk, city treasurer, municipal judge and city attorney may be either elective or appointive offices, as provided by city ordinance. Except as otherwise provided in this subsection **, [**~~and unless the terms of those elected officers are extended by an ordinance adopted pursuant to NRS 293C.115,~~**]** the elected officers shall hold their respective offices for 4 years and until their successors are elected and qualified. The cities of population category three may by ordinance provide that the mayor and city councilmen must be elected and shall hold office for 2 years **. [**~~unless the terms of office of the mayor and city councilmen are extended by an ordinance adopted pursuant to NRS 293C.115.~~**]**

2. In each city of population category one or two ~~[,]~~ in which the officers are appointed pursuant to ordinance, the mayor, with the advice and consent of the city council, shall appoint all of the officers.

3. In cities of population category three, the mayor, with the advice and consent of the city council, may appoint any officers as may be deemed expedient.

4. The city council may provide by ordinance for the office of city clerk and the office of city treasurer to be combined into the office of city clerk and treasurer.

Sec. 29. NRS 267.110 is hereby amended to read as follows:

267.110 1. Any city having adopted a charter pursuant to the provisions of NRS 267.010 to 267.140, inclusive, has pursuant to the charter:

(a) All of the powers enumerated in the general laws of the State for the incorporation of cities.

(b) Such other powers necessary and not in conflict with the Constitution and laws of the State of Nevada to carry out the commission form of government.

2. The charter, when submitted, must:

(a) Fix the number of commissioners, their terms of office and their duties and compensation.

(b) Provide for all necessary appointive and elective officers for the form of government therein provided, and fix their salaries and emoluments, duties and powers.

(c) Fix, in accordance with the provisions of NRS 293C.140 and 293C.175 or with the provisions of NRS 293C.145 **, [**~~, or with the provisions of paragraph (a) of subsection 1 of NRS 293C.115,~~**]** the time for the first and subsequent elections for all elective officers. After the first election and the

qualification of the officers who were elected, the old officers and all boards or offices and their emoluments must be abolished.

Sec. 30. Section 4 of the charter of Boulder City is hereby amended to read as follows:

Section 4. Number; selection ***;*** ~~[~~and term;~~]~~ recall.

1. The City Council shall have four Councilmen and a Mayor elected from the City at large in the manner provided in Article IX ***.*** ~~[~~, for terms of four years and until their successors have been elected and have taken office as provided in section 16, subject to recall as provided in section 111.5.~~]~~ No Councilman shall represent any particular constituency or district of the City, and each Councilman shall represent the entire City. (Amd. 2; 6-4-1991; Add. 17; Amd. 1; 11-5-1996)

2. (Repealed by Amd. 1; 6-4-1991)

3. The Councilmen and the Mayor are subject to recall as provided in section 111.5.

Sec. 31. Section 96 of the charter of Boulder City is hereby amended to read as follows:

Section 96. Conduct of city elections.

1. All city elections must be nonpartisan in character and must be conducted in accordance with the provisions of the general election laws of the State of Nevada and any ordinance regulations as adopted by the City Council which are consistent with law and this Charter. (1959 Charter)

2. ~~[~~All~~]~~ ***The Mayor and two Council members elected at the general city election held on the Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 4.***

3. On the first Tuesday after the first Monday in June 2009, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, two Council members, both of whom hold office until their successors have been elected and qualified pursuant to subsection 5.

4. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general city election to be held for that purpose, a Mayor and two Council members, all of whom hold office for a period of 4 years and until their successors have been elected and qualified.

5. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, two Council members, both of whom hold

office for a period of 4 years until their successors have been elected and qualified.

6. Except as otherwise provided in subsections 2 and 3, all full terms of office in the City Council are ~~[four]~~ ***4*** years, and Council members must be elected at large without regard to precinct residency. ~~[Two full-term Council members and the Mayor are to be elected in each year immediately preceding a federal presidential election, and two full-term Council members are to be elected in each year immediately following a federal presidential election.]~~ In each election, the candidates receiving the greatest number of votes must be declared elected to the vacant full-term positions. (Add. 17; Amd. 1; 11-5-1996)

(a) In the event one or more ~~[two-year]~~ ***2-year*** term positions on the Council will be available at the time of a municipal election as provided in section 12, candidates must file specifically for such position(s). Candidates receiving the greatest respective number of votes must be declared elected to the respective available ~~[two-year]~~ ***2-year*** positions. (Add. 15; Amd. 2; 6-4-1991)

~~[3.]~~ ***7.*** A city primary election must be held on the ~~[first Tuesday after the first Monday in April of each odd-numbered year and a city general election must be held on the first Tuesday after the first Monday in June of each odd-numbered year.]~~ ***date fixed by the election laws of this State for statewide elections.***

(a) A primary election must not be held if no more than double the number of Council members to be elected file as candidates. A primary election must not be held for the office of Mayor if no more than two candidates file for that position. The primary election must be held for the purpose of eliminating candidates in excess of a figure double the number of Council members to be elected. (Add. 17; Amd. 1; 11-5-1996)

(b) If, in the primary city election, a candidate receives votes equal to a majority of voters casting ballots in that election, he shall be considered elected to one of the vacancies and his name shall not be placed on the ballot for the general city election. (Add. 10; Amd. 7; 6-2-1981)

(c) In each primary and general election, voters ~~[shall be]~~ ***are*** entitled to cast ballots for candidates in a number equal to the number of seats to be filled in the city elections. (Add. 11; Amd. 5; 6-7-1983)

~~[4.]~~ ***8.*** The conduct of all municipal elections ~~[shall]~~ ***must*** be under the control of the City Council, which shall adopt by ordinance all regulations which it considers desirable and consistent with law and this Charter. Nothing in this Charter shall be construed as to deny or abridge the power of the City Council to provide for supplemental regulations for the prevention of fraud in such elections and for the

recount of ballots in cases of doubt or fraud. (Add. 24; Amd. 1; 6-3-2003)

Sec. 32. The Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, at page 55, is hereby amended by adding thereto a new section to be designated section 5.120, immediately following section 5.110, to read as follows:

Sec. 5.120 Continuation of certain officers.

The two Councilmen elected at the general election held on the first Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010.

Sec. 33. Section 2.010 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as last amended by chapter 98, Statutes of Nevada 1977, at page 202, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of five Councilmen, including the Mayor.

2. The Mayor and each Councilman ~~[shall]~~ ***must*** be:

(a) Bona fide residents of the City for at least 2 years immediately prior to their election.

(b) Qualified electors within the City.

3. All Councilmen, including the Mayor, ~~[shall]~~ ***must*** be voted upon by the registered voters of the City at large and shall serve for terms of 4 years except as ***otherwise*** provided in ~~[subsection 3 of section]~~ ***sections*** 5.010 ~~[.]~~ ***and 5.120.***

4. The Mayor and Councilmen shall receive a salary in an amount fixed by the City Council. Such salary ~~[shall]~~ ***must*** not be increased or diminished during the term of the recipient.

Sec. 34. Section 5.010 of the Charter of the City of Caliente, being chapter 31, Statutes of Nevada 1971, as amended by chapter 71, Statutes of Nevada 1975, at page 82, is hereby amended to read as follows:

Sec. 5.010 ~~[Municipal]~~ ***General municipal*** elections.

1. On the ~~[1st Tuesday after the 1st Monday in June 1973, there shall be elected by the qualified voters of the City, at a general election to be held for that purpose, a Mayor and one Councilman, who shall hold office for a period of 4 years and until their successors have been elected and qualified.]~~ ***first Tuesday after the first Monday in June 2009, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a Mayor and two Councilmen who shall hold office until their successors have been elected and qualified pursuant to subsection 3.***

2. On the ~~[1st]~~ ***first*** Tuesday after the ~~[1st]~~ ***first*** Monday in ~~[June 1975,]~~ ***November 2012,*** and at each successive interval of 4 years ***,*** ~~[thereafter,]~~ there ~~[shall]~~ ***must*** be elected by the qualified voters of the

City **,** at a general election to be held for that purpose **,** two Councilmen ~~[~~,~~]~~ who shall hold office for a period of 4 years and until their successors have been elected and qualified.

3. ~~[On the 1st Tuesday after the 1st Monday in June 1975, there shall be elected by the qualified voters of the City at a general election to be held for that purpose one Councilman, who shall hold office for a period of 2 years and until his successor has been elected and qualified.~~

~~4.]~~ On the ~~[1st]~~ ***first*** Tuesday after the ~~[1st]~~ ***first*** Monday in ~~[June 1977,]~~ ***November 2014,*** and at each successive interval of 4 years, there ~~[shall]~~ ***must*** be elected by the qualified voters of the City, at a general election to be held for that purpose, a Mayor and two Councilmen ~~[~~,~~]~~ who shall hold office for a period of 4 years and until their successors have been elected and qualified.

Sec. 35. The Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, at page 474, is hereby amended by adding thereto a new section to be designated section 5.110, immediately following section 5.100, to read as follows:

Sec. 5.110 Continuation of certain officers.

The Mayor and two members of the City Council elected at the general election held on the first Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010.

Sec. 36. Section 2.010 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as last amended by chapter 51, Statutes of Nevada 2001, at page 449, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four members and the Mayor.

2. The members of the City Council must be:

(a) Bona fide residents of the City for at least 2 years before their election.

(b) Qualified electors within the City.

3. All members of the City Council must be voted upon by the registered voters of the City at large and ***, except as otherwise provided in sections 5.010 and 5.110,*** shall serve for terms of 4 years.

4. The members of the City Council must receive a salary in an amount fixed by the City Council.

Sec. 37. Section 5.010 of the Charter of the City of Elko, being chapter 276, Statutes of Nevada 1971, as amended by chapter 51, Statutes of Nevada 2001, at page 463, is hereby amended to read as follows:

Sec. 5.010 ~~[Municipal]~~ ***General municipal*** elections.

1. ~~[On the first Tuesday after the first Monday in June 1975, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a Mayor and two members of the City Council, who shall hold office for a period of 4 years and until their successors have been elected and qualified.~~

~~2.]~~ On the first Tuesday after the first Monday in June ~~[1973, and at each successive interval of 4 years thereafter,]~~ ***2009,*** there must be elected by the qualified voters of the City, at a general election to be held for that purpose, two members of the City Council ~~[,]~~ who shall hold office ~~[for a period of 4 years and]~~ until their successors have been elected and qualified ~~[.]~~ ***pursuant to subsection 3.***

2. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a Mayor and two members of the City Council who shall hold office for a period of 4 years and until their successors have been elected and qualified.

3. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, two members of the City Council who shall hold office for a period of 4 years and until their successors have been elected and qualified.

Sec. 38. The Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, at page 402, is hereby amended by adding thereto a new section to be designated as section 5.120, immediately following section 5.110, to read as follows:

Sec. 5.120 Continuation of certain officers.

1. The three Councilmen elected at the general election held on the first Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.020.

2. The Municipal Judge for Department 1 elected at the general election held on the first Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of his successor pursuant to subsection 5 of section 5.020.

3. The Municipal Judge for Department 3 elected at the general election held on the first Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of his successor pursuant to subsection 3 of section 5.020.

Sec. 39. Section 2.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 596, Statutes of Nevada 1995, at page 2206, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Councilmen and the Mayor.

2. The Mayor must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the City.

3. Each Councilman must be:

(a) A bona fide resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

(b) A qualified elector within the ward which he represents.

(c) A resident of the ward which he represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for the office, except that changes in ward boundaries pursuant to the provisions of section 1.040 do not affect the right of any elected Councilman to continue in office for the term for which he was elected.

4. All Councilmen, including the Mayor, must be voted upon by the registered voters of the City at large and ***, except as otherwise provided in sections 5.020 and 5.120,*** shall serve for terms of 4 years.

5. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council. The City Council shall not adopt an ordinance which increases or decreases the salary of the Mayor or the Councilmen during the term for which they have been elected or appointed.

Sec. 40. Section 4.015 of the Charter of the City of Henderson, being chapter 231, Statutes of Nevada 1991, as last amended by chapter 209, Statutes of Nevada 2001, at page 970, is hereby amended to read as follows:

Sec. 4.015 Municipal Court.

1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by, the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may from time to time establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each.

3. At the first municipal primary or general election which follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for a term of not more than 5 years, as determined by the City Council, in order that, as nearly as practicable, one-third of the number of Municipal Judges be elected every 2 years.

4. ~~[Each]~~ ***Except as otherwise provided in subsection 3, each*** Municipal Judge must be voted upon by the registered voters of the City at large ~~[.]~~ ***and, except as otherwise provided in sections 5.020 and 5.120, shall serve for terms of 6 years.***

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic number, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

6. The Senior Municipal Judge is selected by a majority of the sitting judges for a term of 2 years. If no Municipal Judge receives a majority of the votes, the Senior Municipal Judge is the Municipal Judge who has continuously served as a Municipal Judge for the longest period.

Sec. 41. Section 5.010 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:

Sec. 5.010 Primary election.

1. A primary election must be held on the ~~[Tuesday after the first Monday in April of each odd-numbered year,]~~ ***date fixed by the election laws of this State for statewide elections,*** at which time there must be nominated candidates for offices to be voted for at the next general ~~[municipal]~~ election.

2. A candidate for any office to be voted for at any primary ~~[municipal]~~ election must file a declaration of candidacy as provided by the election laws of this State.

3. All candidates for elective office must be voted upon by the registered voters of the City at large.

4. If in the primary election no candidate receives a majority of votes cast in that election for the office for which he is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general election. If in the primary election, regardless of the number of candidates for an office, one candidate receives a majority of votes cast in that election for the office for which he is a candidate, he must be declared elected and no general election need be held for that office.

Sec. 42. Section 5.020 of the Charter of the City of Henderson, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 209, Statutes of Nevada 2001, at page 971, is hereby amended to read as follows:

Sec. 5.020 General municipal election.

1. ~~[A general election must be held in the City on the first Tuesday after the first Monday in June of each odd-numbered year and on the same day every 2 years thereafter, at which time the registered voters of the City shall elect city officers to fill the available elective positions.~~

~~2. All candidates for the office of Mayor, Councilman and Municipal Judge must be voted upon by the registered voters of the City at large. The term of office for members of the City Council and the Mayor is 4 years. Except as otherwise provided in subsection 3 of section 4.015 of this Charter, the term of office for a Municipal Judge is 6 years.~~

~~3.]~~ ***On the first Tuesday after the first Monday in June 2009, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a:***

(a) Mayor and Councilman who shall hold office until their successors have been elected and qualified pursuant to subsection 4.

(b) Municipal Judge for Department 2 who shall hold office until his successor has been elected and qualified pursuant to subsection 6.

2. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, three Councilmen who shall hold office for a period of 4 years and until their successors have been elected and qualified.

3. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 6 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a Municipal Judge for Department 3 who shall hold office for a period of 6 years until his successor has been elected and qualified.

4. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a Mayor and Councilman who shall hold office for a period of 4 years until their successors have been elected and qualified.

5. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 6 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a Municipal Judge for Department 1 who

shall hold office for a period of 6 years until his successor has been elected and qualified.

6. On the ***first*** Tuesday after the first Monday in ~~[June 2001]~~ ***November 2016,*** and ~~[every]~~ ***at each successive interval of*** 6 years ***,*** ~~[thereafter,]~~ there must be elected by the qualified voters of the City, at a general ~~[municipal]~~ election to be held for that purpose, a Municipal Judge for Department ~~[1]~~ ***2*** who will hold office until his successor has been elected and qualified.

~~[4. On the Tuesday after the first Monday in June 2003 and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 2 who will hold office until his successor has been elected and qualified.~~

~~5. On the Tuesday after the first Monday in June 2005 and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 3 who will hold office until his successor has been elected and qualified.]~~

Sec. 43. The Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1391, is hereby amended by adding thereto a new section to be designated as section 5.140, immediately following section 5.130, to read as follows:

Sec. 5.140 Continuation of certain officers.

1. The Mayor and Councilmen from odd-numbered wards elected at the general election held on the Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.020.

2. The Municipal Judges for Departments 2, 3 and 5 elected at the general election held on the Tuesday after the first Monday in June 2005 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 3 of section 5.020.

Sec. 44. Section 1.140 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 6, Statutes of Nevada 2001, at page 10, is hereby amended to read as follows:

Sec. 1.140 Elective offices.

1. The elective officers of the City consist of:

(a) A Mayor.

(b) One Councilman from each ward.

(c) Municipal Judges.

2. ~~[The]~~ ***Except as otherwise provided in sections 5.020 and 5.140, the*** terms of office of the Mayor and Councilmen are 4 years.

3. Except as otherwise provided in subsection 3 of section 4.010 ~~[of this Charter,]~~ and ***sections 5.020 and 5.140,*** the term of office of a Municipal Judge is 6 years.

Sec. 45. Section 1.160 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 338, Statutes of Nevada 2007, at page 1533, is hereby amended to read as follows:

Sec. 1.160 Elective offices: Vacancies. Except as otherwise provided in NRS 268.325:

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

2. No appointment extends beyond the first regular meeting of the City Council that follows the next general municipal election, at that election the office must be filled for the remainder of the unexpired term, or beyond the first regular meeting of the City Council after the Tuesday

after the first Monday in the next succeeding ~~[June]~~ ***November*** in an ~~[odd-numbered]~~ ***even-numbered*** year, if no general municipal election is held in that year.

Sec. 46. Section 4.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 338, Statutes of Nevada 2007, at page 1536, is hereby amended to read as follows:

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

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

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

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

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

2. The salary of the Municipal Judges must be fixed by ordinance and be uniform for all departments of the Municipal Court. The salary

may be increased during the terms for which the Judges are elected or appointed.

3. The Municipal Judges of the six departments shall elect a Master Judge from among their number. The Master Judge shall hold office for a term of 2 years commencing on July 1 of each ~~[odd-numbered year.]~~ ***year of a general municipal election.*** If a vacancy occurs in the position of Master Judge, the Municipal Judges shall elect a replacement for the remainder of the unexpired term. If two or more Municipal Judges receive an equal number of votes for the position of Master Judge, the candidates who have received the tie votes shall resolve the tie vote by the drawing of lots. The Master Judge:

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

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

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

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

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

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

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

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

Sec. 47. Section 5.010 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, as last amended by chapter 637, Statutes of Nevada 1999, at page 3565, is hereby amended to read as follows:

Sec. 5.010 Primary municipal elections.

1. ~~[On the Tuesday after the first Monday in April 2001, and at each successive interval of 4 years, a]~~ ***A*** primary ~~[municipal]~~ election must be held in the City ~~[at which time candidates for half of the offices of Councilman and for Municipal Judge, Department 2, must be nominated.~~

~~2. On the Tuesday after the first Monday in April 2003, and at each successive interval of 4 years, a primary municipal election must be held in the City at which time candidates for Mayor, for the other half of the offices of Councilman and for Municipal Judge, Department 1, must be nominated.~~

~~3.~~ ***on the date fixed by the election laws of this State for statewide elections.***

2. In the primary election:

(a) The candidates for Councilman who are to be nominated ~~[as provided in subsections 1 and 2]~~ must be nominated and voted for separately according to the respective wards. ~~[The candidates from each even-numbered ward must be nominated as provided in subsection 1, and the candidates from each odd-numbered ward must be nominated as provided in subsection 2.~~

~~4.~~ ***(b)*** If the City Council has established an additional department or departments of the Municipal Court pursuant to section 4.010 of this Charter ~~[,]~~ and, as a result, more than one office of Municipal Judge is to be filled at any election, the candidates for those offices must be nominated and voted upon separately according to the respective departments.

~~[5.]~~ ***3.*** Each candidate for ~~[the municipal offices which are provided for in subsections 1, 2 and 4]~~ ***municipal office*** must file a declaration of candidacy with the City Clerk. All filing fees collected by the City Clerk must be paid into the City Treasury.

~~[6.]~~ ***4.*** If, in the primary election, regardless of the number of candidates for an office, one candidate receives a majority of votes which are cast in that election for the office for which he is a candidate, he must be declared elected for the term which commences on the day of the first regular meeting of the City Council next succeeding the meeting at which the canvass of the returns is made, and no general election need be held for that office. If, in the primary election, no candidate receives a majority of votes which are cast in that election for the office for which he is a candidate, the names of the two candidates who receive the highest number of votes must be placed on the ballot for the general election.

Sec. 48. Section 5.020 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1415, is hereby amended to read as follows:

Sec. 5.020 General municipal election.

1. ~~[A]~~ ***On the first Tuesday after the first Monday in June 2009, there must be elected, at a*** general ~~[municipal]~~ election ~~[must be]~~ held in the City ~~[on the Tuesday after the 1st Monday in June of each odd-numbered year and on the same day every 2 years thereafter, at which time there must be elected those officers whose offices are required to be filled by election in that year.]~~ ***for that purpose:***

(a) The Councilmen from even-numbered wards who shall hold office until their successors have been elected and qualified pursuant to subsection 4.

(b) The Municipal Judges for Departments 1, 4 and 6 who shall hold office until their successors have been elected and qualified pursuant to subsection 5.

2. ***On the first Tuesday after the first Monday in November 2012, and at each successive interval of 4 years, there must be elected, at a general election to be held for that purpose, the Mayor and Councilmen from odd-numbered wards who shall hold office for a period of 4 years and until their successors have been elected and qualified.***

3. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 6 years, there must be elected, at a general election to be held for that purpose, Municipal Judges for Departments 2, 3 and 5 who shall hold office for a period of 6 years and until their successors have been elected and qualified.

4. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected, at a general election to be held for that purpose, the Councilmen from even-numbered wards who shall hold office for a period of 4 years and until their successors have been elected and qualified.

5. On the first Tuesday after the first Monday in November 2016, and at each successive interval of 6 years, there must be elected, at a general election to be held for that purpose, Municipal Judges for Departments 1, 4 and 6 who shall hold office for a period of 6 years and until their successors have been elected and qualified.

6. All candidates for elective office, except the office of Councilman, must be voted upon by the registered voters of the City at large.

Sec. 49. The Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, at page 1210, is hereby amended by adding thereto a new section to be designated as section 5.100, immediately following section 5.090, to read as follows:

Sec. 5.100 Continuation of certain officers.

1. The Municipal Judge for Department 1 elected at the general election held on the Tuesday after the first Monday in June 2005 shall continue in office until the election, and qualification thereafter, of his successor pursuant to subsection 3 of section 5.010.

2. The two Councilmen elected at the general election held on the Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010.

Sec. 50. Section 2.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Councilmen and a Mayor.

2. The Mayor must be:

(a) A bona fide resident of the City for at least 6 months immediately preceding his election.

(b) A qualified elector within the City.

3. Each Councilman:

(a) Must be a qualified elector who has resided in the ward which he represents for at least 30 days immediately preceding the last day for filing a declaration of candidacy for his office.

(b) Must continue to live in the ward he represents, except that changes in ward boundaries made pursuant to section 1.045 of this Charter will not affect the right of any elected Councilman to continue in office for the term for which he was elected.

4. At the time of filing, if so required by an ordinance duly enacted, candidates for the office of Mayor and Councilman shall produce evidence in satisfaction of any or all of the qualifications provided in subsection 2 or 3, whichever is applicable.

5. Each Councilman must be voted upon only by the registered voters of the ward that he seeks to represent, and ***except as otherwise provided in sections 5.010 and 5.100,*** his term of office is 4 years.

6. The Mayor must be voted upon by the registered voters of the City at large, and ***except as otherwise provided in section 5.010,*** his term of office is 4 years.

7. The Mayor and Councilmen are entitled to receive a salary in an amount fixed by the City Council.

Sec. 51. Section 4.005 of the Charter of the City of North Las Vegas, being chapter 215, Statutes of Nevada 1997, as amended by chapter 73, Statutes of Nevada 2003, at page 484, is hereby amended to read as follows:

Sec. 4.005 Municipal Court.

1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may, from time to time, by ordinance, establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each additional department.

3. At the first municipal primary or municipal general election that follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for an initial term of not more than 6 years, as determined by the City Council, in order that, as nearly as practicable, one-third of the number of Municipal Judges be elected every 2 years.

4. Except as otherwise provided by the ordinance establishing an additional department, each Municipal Judge must be voted upon by the registered voters of the City at large and ***, except as otherwise provided in sections 5.010 and 5.100,*** holds office for a period of 6 years and until his successor has been elected and qualified.

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic numeral, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

Sec. 52. Section 5.010 of the Charter of the City of North Las Vegas, being chapter 573, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2691, is hereby amended to read as follows:

Sec. 5.010 General municipal elections.

1. On the Tuesday after the first Monday in June ~~[~~1977, and at each successive interval of 4 years thereafter,~~]~~ ***2009,*** there must be elected, at a general election to be held for that purpose, a ***:***

(a) Mayor and two Councilmen ~~[,]~~ who shall hold office ~~[~~for a period of 4 years and~~]~~ until their successors have been elected and qualified ~~[.]~~ ***pursuant to subsection 4.***

(b) Municipal Judge for Department 2 who shall hold office until his successor has been elected and qualified pursuant to subsection 5.

2. On the ***first*** Tuesday after the first Monday in ~~[~~June 1975,~~]~~ ***November 2012,*** and at each successive interval of 4 years ***,*** ~~[~~thereafter,~~]~~ there must be elected, at a general election to be held for that purpose, two Councilmen ~~[,]~~ who shall hold office for a period of 4 years and until their successors have been elected and qualified.

3. ***On the first Tuesday after the first Monday in November 2012, and at each successive interval of 6 years, there must be elected, at a general election to be held for that purpose, a Municipal Judge for Department 1 who shall hold office for a period of 6 years and until his successor has been elected and qualified.***

4. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected, at a general election to be held for that purpose, a Mayor and two Councilmen who shall hold office until their successors have been elected and qualified.

5. On the first Tuesday after the first Monday in November 2016, and at each successive interval of 6 years, there must be elected, at a general election to be held for that purpose, a Municipal Judge for Department 2 who shall hold office for a period of 6 years and until his successor has been elected and qualified.

6. In such a general election:

(a) A candidate for the office of City Councilman must be elected only by the registered voters of the ward that he seeks to represent.

(b) Candidates for all other elective offices must be elected by the registered voters of the City at large.

Sec. 53. Section 5.020 of the Charter of the City of North Las Vegas, being chapter 266, Statutes of Nevada 1971, as last amended by chapter 499, Statutes of Nevada 2005, at page 2692, is hereby amended to read as follows:

Sec. 5.020 Primary municipal elections; declaration of candidacy.

1. The City Council shall provide by ordinance for candidates for elective office to declare their candidacy and file the necessary documents. The seats for City Councilmen must be designated by the numbers one through four, which numbers must correspond with the wards the candidates for City Councilmen will seek to represent. A candidate for the office of City Councilman shall include in his declaration of candidacy the number of the ward which he seeks to represent. Each candidate for City Council must be designated as a candidate for the City Council seat that corresponds with the ward that he seeks to represent.

2. If for any general municipal election there are three or more candidates for the offices of Mayor or Municipal Judge, or for a particular City Council seat, a primary election for any such office must be held on the ~~[Tuesday following the first Monday in April preceding the general election.]~~ ***date fixed by the election laws of this State for statewide elections.*** In the primary election:

(a) A candidate for the office of City Councilman must be voted upon only by the registered voters of the ward that he seeks to represent.

(b) Candidates for all other elective offices must be voted upon by the registered voters of the City at large.

3. Except as otherwise provided in subsection 4, after the primary election, the names of the two candidates for Mayor, Municipal Judge and each City Council seat who receive the highest number of votes must be placed on the ballot for the general election.

4. If one of the candidates for Mayor, Municipal Judge or a City Council seat receives a majority of the total votes cast for that office in the primary election, he shall be declared elected to office and his name must not appear on the ballot for the general election.

Sec. 54. The Charter of Yerington, being chapter 465, Statutes of Nevada 1971, at page 901, is hereby amended by adding thereto a new section to be designated as section 5.110, immediately following section 5.100, to read as follows:

Sec. 5.110 Continuation of certain officers.

The Mayor and two Councilmen elected at the general election held on the first Tuesday after the first Monday in June 2007 shall continue in office until the election, and qualification thereafter, of their successors pursuant to subsection 2 of section 5.010.

Sec. 55. Section 2.010 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, as last amended by chapter 98, Statutes of Nevada 1977, at page 213, is hereby amended to read as follows:

Sec. 2.010 City Council: Qualifications; election; term of office; salary.

1. The legislative power of the City is vested in a City Council consisting of four Councilmen.

2. The Councilmen ~~[shall]~~ ***must*** be:

(a) Bona fide residents of the City for at least 6 months immediately preceding their election.

(b) Qualified electors in the City.

3. All Councilmen ~~[shall]~~ ***must*** be voted upon by the registered voters of the City at large and ***, except as otherwise provided in sections 5.010 and 5.110,*** shall serve for terms of 4 years.

4. The Councilmen shall receive a salary in an amount fixed by the City Council.

Sec. 56. Section 5.010 of the Charter of the City of Yerington, being chapter 465, Statutes of Nevada 1971, at page 912, is hereby amended to read as follows:

Sec. 5.010 ~~[Municipal]~~ ***General municipal*** elections.

1. ~~[On the 1st Tuesday after the 1st Monday in June 1975, and at each successive interval of 4 years, there shall be elected by the qualified voters of the City at a general election to be held for that purpose a Mayor and two Councilmen, who shall hold office for a period of 4 years and until their successors have been elected and qualified.~~

~~2.]~~ On the ~~[1st]~~ ***first*** Tuesday after the ~~[1st]~~ ***first*** Monday in June ~~[1977, and at each successive interval of 4 years thereafter,]~~ ***2009,*** there ~~[shall]~~ ***must*** be elected by the qualified voters of the City ***,*** at a general election to be held for that purpose ***,*** two Councilmen ~~[,]~~ who shall hold office ~~[for a period of 4 years and]~~ until their successors have been elected and qualified ~~[.]~~ ***pursuant to subsection 3.***

2. On the first Tuesday after the first Monday in November 2012, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, a Mayor and two Councilmen who shall hold

office for a period of 4 years and until their successors have been elected and qualified.

3. On the first Tuesday after the first Monday in November 2014, and at each successive interval of 4 years, there must be elected by the qualified voters of the City, at a general election to be held for that purpose, two Councilmen who shall hold office for a period of 4 years and until their successors have been elected and qualified.

Sec. 57. Notwithstanding any other provision of law to the contrary, if a city incorporated pursuant to general law holds a general city election in:

1. June 2009, the elective city officers who are elected at such general city election shall continue in office until the election, and qualification thereafter, of their successors in the general city election to be held on the first Tuesday after the first Monday in November 2012.

2. June 2011, the elective city officers who are elected at such general city election shall continue in office until the election, and qualification thereafter, of their successors in the general city election to be held on the first Tuesday after the first Monday in November 2014.

Sec. 57.5. **Notwithstanding any other provision of law to the contrary, if the term of any elective city officer whose term of office expires in 2011 or 2013 is not otherwise extended or shortened pursuant to sections 1 to 57, inclusive, of this act, the person or entity designated by law to fill vacancies that occur on the city council of the city shall appoint the incumbent elective city officer to serve as City Councilman, Mayor, Municipal Judge or other elective city officer, as applicable, in that office until his successor is elected and qualified at the general election in 2012 or 2014, as applicable, if that person is willing to serve in that capacity. If the person is not willing to serve in that capacity, the position must be filled in the same manner as if a vacancy occurred in the position.**

Sec. 58. 1. This section and sections 3 to 17, inclusive, and ~~[sections]~~ 30 to ~~[57.]~~ **57.5,** inclusive, of this act become effective upon passage and approval.

2. Sections 1, 2 and 18 to 29, inclusive, of this act become effective on July 1, 2011.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 281.

Bill read second time.

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

Amendment No. 278.

AN ACT relating to industrial insurance; creating an expedited appeals process for certain claims by police officers, firefighters and emergency medical attendants; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 2 of this bill authorize certain contested claims relating to certain occupational diseases of police officers, firefighters and emergency medical attendants to be submitted directly to an appeals officer, thereby bypassing the hearing officer to whom the contested claim would need to be submitted under existing law. (NRS 616C.315) **Section 2** also requires that the appeals officer set a hearing date within ~~[30]~~ **60** days after receiving a notice of any such contested claim. (NRS 616C.345) **Section 3** of this bill requires that the appeals officer render a decision for any such contested claim within 15 days after certain specified events. (NRS 616C.360)

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

Section 1. NRS 616C.315 is hereby amended to read as follows:

616C.315 1. Any person who is subject to the jurisdiction of the hearing officers pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS may request a hearing before a hearing officer of any matter within the hearing officer's authority. The insurer shall provide, without cost, the forms necessary to request a hearing to any person who requests them.

2. A hearing must not be scheduled until the following information is provided to the hearing officer:

(a) The name of:

(1) The claimant;

(2) The employer; and

(3) The insurer or third-party administrator;

(b) The number of the claim; and

(c) If applicable, a copy of the letter of determination being appealed or, if such a copy is unavailable, the date of the determination and the issues stated in the determination.

3. Except as otherwise provided in NRS 616B.772, 616B.775, 616B.787, 616C.305 and 616C.427, a person who is aggrieved by:

(a) A written determination of an insurer; or

(b) The failure of an insurer to respond within 30 days to a written request mailed to the insurer by the person who is aggrieved,

➥ may appeal from the determination or failure to respond by filing a request for a hearing before a hearing officer. Such a request must include the information required pursuant to subsection 2 and, except as otherwise provided in subsections 4 and 5, must be filed within 70 days after the date on which the notice of the insurer's determination was mailed by the insurer or the unanswered written request was mailed to the insurer, as applicable. The failure of an insurer to respond to a written request for a determination

within 30 days after receipt of such a request shall be deemed by the hearing officer to be a denial of the request.

4. The period specified in subsection 3 within which a request for a hearing must be filed may be extended for an additional 90 days if the person aggrieved shows by a preponderance of the evidence that he was diagnosed with a terminal illness or was informed of the death or diagnosis of a terminal illness of his spouse, parent or child.

5. Failure to file a request for a hearing within the period specified in subsection 3 may be excused if the person aggrieved shows by a preponderance of the evidence that he did not receive the notice of the determination and the forms necessary to request a hearing. The claimant or employer shall notify the insurer of a change of address.

6. The hearing before the hearing officer must be conducted as expeditiously and informally as is practicable.

7. The parties to a contested claim may, if the claimant is represented by legal counsel, agree to forego a hearing before a hearing officer and submit the contested claim directly to an appeals officer.

8. A claimant may, with regard to a contested claim arising from the provisions of NRS 617.453, 617.455, 617.457, 617.485 or 617.487 as described in subsection 2 of NRS 616C.345, submit the contested claim directly to an appeals officer pursuant to subsection 2 of NRS 616C.345 without the agreement of any other party.

Sec. 2. NRS 616C.345 is hereby amended to read as follows:

616C.345 1. Any party aggrieved by a decision of the hearing officer relating to a claim for compensation may appeal from the decision by, except as otherwise provided in subsections ~~[8 and 9,]~~ ***9 and 10,*** filing a notice of appeal with an appeals officer within 30 days after the date of the decision.

2. ***A claimant aggrieved by a written determination of the denial of a claim, in whole or in part, by an insurer, or the failure of an insurer to respond in writing within 30 days to a written request of the claimant mailed to the insurer, concerning a claim arising from the provisions of NRS 617.453, 617.455, 617.457, 617.485 or 617.487 may file a notice of a contested claim with an appeals officer. The notice must include the information required pursuant to subsection 3 and, except as otherwise provided in subsections 9 and 11, must be filed within 70 days after the date on which the notice of the insurer's determination was mailed by the insurer or the unanswered written request was mailed to the insurer, as applicable. The failure of an insurer to respond in writing to a written request for a determination within 30 days after receipt of such a request shall be deemed by the appeals officer to be a denial of the request. The insurer shall provide, without cost, the forms necessary to file a notice of a contested claim to any person who requests them.***

3. A hearing must not be scheduled until the following information is provided to the appeals officer:

(a) The name of:

(1) The claimant;

(2) The employer; and

(3) The insurer or third-party administrator;

(b) The number of the claim; and

(c) If applicable, a copy of the letter of determination being appealed or, if such a copy is unavailable, the date of the determination and the issues stated in the determination.

~~[3.]~~ ***4.*** If a dispute is required to be submitted to a procedure for resolving complaints pursuant to NRS 616C.305 and:

(a) A final determination was rendered pursuant to that procedure; or

(b) The dispute was not resolved pursuant to that procedure within 14 days after it was submitted,

➥ any party to the dispute may, except as otherwise provided in subsections ~~[8 and 9,]~~ ***9 and 10,*** file a notice of appeal within 70 days after the date on which the final determination was mailed to the employee, or his dependent, or the unanswered request for resolution was submitted. Failure to render a written determination within 30 days after receipt of such a request shall be deemed by the appeals officer to be a denial of the request.

~~[4.]~~ ***5.*** Except as otherwise provided in NRS 616C.380, the filing of a notice of appeal does not automatically stay the enforcement of the decision of a hearing officer or a determination rendered pursuant to NRS 616C.305. The appeals officer may order a stay, when appropriate, upon the application of a party. If such an application is submitted, the decision is automatically stayed until a determination is made concerning the application. A determination on the application must be made within 30 days after the filing of the application. If a stay is not granted by the officer after reviewing the application, the decision must be complied with within 10 days after the date of the refusal to grant a stay.

~~[5.]~~ ***6.*** Except as otherwise provided in subsections ~~[2 and 6,]~~ ***3 and 7,*** within 10 days after receiving a notice of appeal pursuant to this section or NRS 616C.220, 616D.140 or 617.401, or within 10 days after receiving a notice of a contested claim pursuant to subsection 7 of NRS 616C.315, the appeals officer shall:

(a) Schedule a hearing on the merits of the appeal or contested claim for a date and time within 90 days after his receipt of the notice at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the appeals officer; and

(b) Give notice by mail or by personal service to all parties to the matter and their attorneys or agents at least 30 days before the date and time scheduled.

~~[6. A]~~

7. Except as otherwise provided in subsection 12, a request to schedule the hearing for a date and time which is:

(a) Within 60 days after the receipt of the notice of appeal or contested claim; or

(b) More than 90 days after the receipt of the notice or claim,

➥ may be submitted to the appeals officer only if all parties to the appeal or contested claim agree to the request.

~~[7. An]~~

8. ~~*[Except as otherwise provided in subsection 12, an]*~~ ***An*** appeal or contested claim may be continued upon written stipulation of all parties, or upon good cause shown.

~~[8.]~~ ***9.*** The period specified in subsection 1 ***, 2*** or ~~[3]~~ ***4*** within which a notice of appeal ***or a notice of a contested claim*** must be filed may be extended for an additional 90 days if the person aggrieved shows by a preponderance of the evidence that he was diagnosed with a terminal illness or was informed of the death or diagnosis of a terminal illness of his spouse, parent or child.

~~[9.]~~ ***10.*** Failure to file a notice of appeal within the period specified in subsection 1 or ~~[3]~~ ***4*** may be excused if the party aggrieved shows by a preponderance of the evidence that he did not receive the notice of the determination and the forms necessary to appeal the determination. The claimant, employer or insurer shall notify the hearing officer of a change of address.

11. Failure to file a notice of a contested claim within the period specified in subsection 2 may be excused if the claimant shows by a preponderance of the evidence that he did not receive the notice of the determination and the forms necessary to file the notice. The claimant or employer shall notify the insurer of a change of address.

12. Within 10 days after receiving a notice of a contested claim pursuant to subsection 2, the appeals officer shall:

(a) Schedule a hearing on the merits of the contested claim for a date and time within ~~*[30]*~~ ***60 days after his receipt of the notice at a place in Carson City, Nevada, or Las Vegas, Nevada, or upon agreement of one or more of the parties to pay all additional costs directly related to an alternative location, at any other place of convenience to the parties, at the discretion of the appeals officer; and***

(b) Give notice by mail or by personal service to all parties to the matter and their attorneys or agents ~~*[at least 20 days before the date and time scheduled.]*~~ ***within 10 days after scheduling the hearing.***

➥ The scheduled date must allow sufficient time for full disclosure, exchange and examination of medical and other relevant information. A party may not introduce information at the hearing which was not previously disclosed to the other parties unless all parties agree to the introduction.

Sec. 3. NRS 616C.360 is hereby amended to read as follows:

616C.360 1. A stenographic or electronic record must be kept of the hearing before the appeals officer and the rules of evidence applicable to contested cases under chapter 233B of NRS apply to the hearing.

2. The appeals officer must hear any matter raised before him on its merits, including new evidence bearing on the matter.

3. If there is a medical question or dispute concerning an injured employee's condition or concerning the necessity of treatment for which authorization for payment has been denied, the appeals officer may:

(a) Order an independent medical examination and refer the employee to a physician or chiropractor of his choice who has demonstrated special competence to treat the particular medical condition of the employee, whether or not the physician or chiropractor is on the insurer's panel of providers of health care. If the medical question concerns the rating of a permanent disability, the appeals officer may refer the employee to a rating physician or chiropractor. The rating physician or chiropractor must be selected in rotation from the list of qualified physicians or chiropractors maintained by the Administrator pursuant to subsection 2 of NRS 616C.490, unless the insurer and the injured employee otherwise agree to a rating physician or chiropractor. The insurer shall pay the costs of any examination requested by the appeals officer.

(b) If the medical question or dispute is relevant to an issue involved in the matter before the appeals officer and all parties agree to the submission of the matter to an external review organization, submit the matter to an external review organization in accordance with NRS 616C.363 and any regulations adopted by the Commissioner.

4. If an injured employee has requested payment for the cost of obtaining a second determination of his percentage of disability pursuant to NRS 616C.100, the appeals officer shall decide whether the determination of the higher percentage of disability made pursuant to NRS 616C.100 is appropriate and, if so, may order the insurer to pay to the employee an amount equal to the maximum allowable fee established by the Administrator pursuant to NRS 616C.260 for the type of service performed, or the usual fee of that physician or chiropractor for such service, whichever is less.

5. The appeals officer shall order an insurer, organization for managed care or employer who provides accident benefits for injured employees pursuant to NRS 616C.265 to pay to the appropriate person the charges of a provider of health care if the conditions of NRS 616C.138 are satisfied.

6. Any party to the appeal ***or contested case*** or the appeals officer may order a transcript of the record of the hearing at any time before the seventh day after the hearing. The transcript must be filed within 30 days after the date of the order unless the appeals officer otherwise orders.

7. ~~[The]~~ ***Except as otherwise provided in subsection 8, the*** appeals officer shall render his decision:

(a) If a transcript is ordered within 7 days after the hearing, within 30 days after the transcript is filed; or

(b) If a transcript has not been ordered, within 30 days after the date of the hearing.

8. ***The appeals officer shall render his decision on a contested claim submitted pursuant to subsection 2 of NRS 616C.345 within 15 days after:***

(a) The date of the hearing; or

(b) If the appeals officer orders an independent medical examination, the date the appeals officer receives the report of the examination,

↪ unless both parties to the contested claim agree to a later date.

9. The appeals officer may affirm, modify or reverse any decision made by ~~[the]~~ ***a*** hearing officer and issue any necessary and proper order to give effect to his decision.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 284.

Bill read second time.

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

Amendment No. 369.

AN ACT relating to homeland security; increasing the number of voting members of the Nevada Commission on Homeland Security; revising provisions governing the confidentiality of vulnerability assessments and emergency response plans of utilities **, public entities and private businesses** in this State; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Nevada Commission on Homeland Security and requires the Governor to appoint to the Commission 14 voting members that he determines to be appropriate, including certain mandatory appointments. (NRS 239C.120) **Section 1** of this bill increases the number of voting members of the Commission to 16 and requires the Governor to appoint ~~[two voting members who reflect the ethnic and geographical diversity of this State.]~~ **one voting member who represents Native American tribal communities in northern Nevada and one voting member who represents Native American tribal communities in southern Nevada.**

Existing law provides that the Governor may, by executive order, determine that certain documents, records and other information relating to preventing and responding to acts of terrorism are confidential. Such documents, records and other information are not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by and released to public safety and public health personnel. (NRS 239C.210) **Section 2** of this bill extends that authority to include vulnerability assessments and emergency response plans of utilities **, public entities and private businesses** in this State.

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

Section 1. NRS 239C.120 is hereby amended to read as follows:

239C.120 1. The Nevada Commission on Homeland Security is hereby created.

2. The Governor shall appoint to the Commission ~~[14]~~ ***16*** voting members that he determines to be appropriate and who serve at his pleasure, which must include at least:

(a) The sheriff of each county whose population is 100,000 or more;

(b) The chief of the county fire department in each county whose population is 100,000 or more;

(c) A member of the medical community in a county whose population is 400,000 or more; ~~[and]~~

(d) An employee of the largest incorporated city in each county whose population is 400,000 or more ~~[.]~~ ***;*** ~~*[and]*~~

(e) ~~*[Two members who reflect the ethnic and geographical diversity of this State.]*~~ ***One member who represents Native American tribal communities in northern Nevada; and***

(f) One member who represents Native American tribal communities in southern Nevada.

3. The Governor shall appoint:

(a) An officer of the United States Department of Homeland Security whom the Department of Homeland Security has designated for this State; and

(b) The agent in charge of the office of the Federal Bureau of Investigation in this State,

➥ as nonvoting members of the Commission.

4. The ~~[Senate]~~ Majority Leader ***of the Senate*** shall appoint one member of the Senate as a nonvoting member of the Commission.

5. The Speaker of the Assembly shall appoint one member of the Assembly as a nonvoting member of the Commission.

6. Except for the initial members, the term of office of each member of the Commission who is a Legislator is 2 years and commences on July 1 of the year of appointment.

7. The Governor or his designee shall:

(a) Serve as Chairman of the Commission; and

(b) Appoint a member of the Commission to serve as Vice Chairman of the Commission.

Sec. 2. NRS 239C.210 is hereby amended to read as follows:

239C.210 1. A document, record or other item of information described in subsection 2 that is prepared and maintained for the purpose of preventing or responding to an act of terrorism is confidential, not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by or released to public safety and public health

personnel if the Governor determines, by executive order, that the disclosure or release of the document, record or other item of information would thereby create a substantial likelihood of compromising, jeopardizing or otherwise threatening the public health, safety or welfare.

2. The types of documents, records or other items of information subject to executive order pursuant to subsection 1 are as follows:

(a) Assessments, plans or records that evaluate or reveal the susceptibility of fire stations, police stations and other law enforcement stations to acts of terrorism or other related emergencies.

(b) Drawings, maps, plans or records that reveal the critical infrastructure of primary buildings, facilities and other structures used for storing, transporting or transmitting water or electricity, natural gas or other forms of energy.

(c) Documents, records or other items of information which may reveal the details of a specific emergency response plan or other tactical operations by a response agency and any training relating to such emergency response plans or tactical operations.

(d) Handbooks, manuals or other forms of information detailing procedures to be followed by response agencies in the event of an act of terrorism or other related emergency.

(e) Documents, records or other items of information that reveal information pertaining to specialized equipment used for covert, emergency or tactical operations of a response agency, other than records relating to expenditures for such equipment.

(f) Documents, records or other items of information regarding the infrastructure and security of frequencies for radio transmissions used by response agencies, including, without limitation:

(1) Access codes, passwords or programs used to ensure the security of frequencies for radio transmissions used by response agencies;

(2) Procedures and processes used to ensure the security of frequencies for radio transmissions used by response agencies; and

(3) Plans used to reestablish security and service with respect to frequencies for radio transmissions used by response agencies after security has been breached or service has been interrupted.

(g) Vulnerability assessments and emergency response plans of utilities , public entities and private businesses in this State. As used in this paragraph, "public entities" means departments, agencies or instrumentalities of the State or any of its political subdivisions. The term includes general improvement districts.

3. If a person knowingly and unlawfully discloses a document, record or other item of information subject to an executive order issued pursuant to subsection 1 or assists, solicits or conspires with another person to disclose such a document, record or other item of information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

4. As used in this section, "public safety and public health personnel" includes:

(a) State, county and city emergency managers;

(b) Members and staff of terrorism early warning centers or fusion intelligence centers in this State;

(c) Employees of fire-fighting or law enforcement agencies, if the head of the agency has designated the employee as having an operational need to know information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism; and

(d) Employees of a public health agency, if the agency is one that would respond to a disaster and if the head of the agency has designated the employee as having an operational need to know information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism. As used in this paragraph, "disaster" has the meaning ascribed to it in NRS 414.0335.

Sec. 3. NRS 239C.270 is hereby amended to read as follows:

239C.270 1. Each utility shall:

(a) Conduct a vulnerability assessment in accordance with the requirements of the federal and regional agencies that regulate the utility; and

(b) Prepare and maintain an emergency response plan in accordance with the requirements of the federal and regional agencies that regulate the utility.

2. Each utility shall:

(a) As soon as practicable but not later than December 31, 2003, submit its vulnerability assessment and emergency response plan to the Division; and

(b) At least once each year thereafter, review its vulnerability assessment and emergency response plan and, as soon as practicable after its review is completed but not later than December 31 of each year, submit the results of its review and any additions or modifications to its emergency response plan to the Division.

3. Except as otherwise provided in NRS 239.0115, each vulnerability assessment and emergency response plan of a utility and any other information concerning a utility that is necessary to carry out the provisions of this section is confidential and must be securely maintained by each person or entity that has possession, custody or control of the information.

4. ~~[A]~~ ***Except as otherwise provided in NRS 239C.210, a*** person shall not disclose such information, except:

(a) Upon the lawful order of a court of competent jurisdiction;

(b) As is reasonably necessary to carry out the provisions of this section or the operations of the utility, as determined by the Division;

(c) As is reasonably necessary in the case of an emergency involving public health or safety, as determined by the Division; or

(d) Pursuant to the provisions of NRS 239.0115.

5. If a person knowingly and unlawfully discloses such information or assists, solicits or conspires with another person to disclose such information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

Sec. 4. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 488.

AN ACT relating to homeland security; increasing the number of voting members of the Nevada Commission on Homeland Security; revising provisions governing the confidentiality of vulnerability assessments and emergency response plans of utilities in this State; **clarifying that certain documents, records and other items of information may be inspected by and released to the Legislative Auditor when conducting a postaudit;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Nevada Commission on Homeland Security and requires the Governor to appoint to the Commission 14 voting members that he determines to be appropriate, including certain mandatory appointments. (NRS 239C.120) **Section 1** of this bill increases the number of voting members of the Commission to 16 and requires the Governor to appoint two voting members who reflect the ethnic and geographical diversity of this State.

Existing law provides that the Governor may, by executive order, determine that certain documents, records and other information relating to preventing and responding to acts of terrorism are confidential. Such documents, records and other information are not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by and released to public safety and public health personnel. (NRS 239C.210) **Section 2** of this bill extends that authority to include vulnerability assessments and emergency response plans of utilities in this State. **Section 2 also clarifies that the documents, records and other items of information subject to executive order of confidentiality for security purposes may be inspected by and released to the Legislative Auditor when conducting a postaudit.**

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

Section 1. NRS 239C.120 is hereby amended to read as follows:

239C.120 1. The Nevada Commission on Homeland Security is hereby created.

2. The Governor shall appoint to the Commission ~~[14]~~ ***16*** voting members that he determines to be appropriate and who serve at his pleasure, which must include at least:

(a) The sheriff of each county whose population is 100,000 or more;

(b) The chief of the county fire department in each county whose population is 100,000 or more;

(c) A member of the medical community in a county whose population is 400,000 or more; ~~[and]~~

(d) An employee of the largest incorporated city in each county whose population is 400,000 or more ~~[.]~~ ***; and***

(e) Two members who reflect the ethnic and geographical diversity of this State.

3. The Governor shall appoint:

(a) An officer of the United States Department of Homeland Security whom the Department of Homeland Security has designated for this State; and

(b) The agent in charge of the office of the Federal Bureau of Investigation in this State,

➥ as nonvoting members of the Commission.

4. The ~~[Senate]~~ Majority Leader ***of the Senate*** shall appoint one member of the Senate as a nonvoting member of the Commission.

5. The Speaker of the Assembly shall appoint one member of the Assembly as a nonvoting member of the Commission.

6. Except for the initial members, the term of office of each member of the Commission who is a Legislator is 2 years and commences on July 1 of the year of appointment.

7. The Governor or his designee shall:

(a) Serve as Chairman of the Commission; and

(b) Appoint a member of the Commission to serve as Vice Chairman of the Commission.

Sec. 2. NRS 239C.210 is hereby amended to read as follows:

239C.210 1. A document, record or other item of information described in subsection 2 that is prepared and maintained for the purpose of preventing or responding to an act of terrorism is confidential, not subject to subpoena or discovery, not subject to inspection by the general public and may only be inspected by or released to ~~[public]~~ ***:***

(a) Public safety and public health personnel ***; and***

(b) The Legislative Auditor conducting a postaudit pursuant to NRS 218.737 to 218.893, inclusive,

➥ if the Governor determines, by executive order, that the disclosure or release of the document, record or other item of information would thereby create a substantial likelihood of compromising, jeopardizing or otherwise threatening the public health, safety or welfare.

2. The types of documents, records or other items of information subject to executive order pursuant to subsection 1 are as follows:

(a) Assessments, plans or records that evaluate or reveal the susceptibility of fire stations, police stations and other law enforcement stations to acts of terrorism or other related emergencies.

(b) Drawings, maps, plans or records that reveal the critical infrastructure of primary buildings, facilities and other structures used for storing, transporting or transmitting water or electricity, natural gas or other forms of energy.

(c) Documents, records or other items of information which may reveal the details of a specific emergency response plan or other tactical operations by a response agency and any training relating to such emergency response plans or tactical operations.

(d) Handbooks, manuals or other forms of information detailing procedures to be followed by response agencies in the event of an act of terrorism or other related emergency.

(e) Documents, records or other items of information that reveal information pertaining to specialized equipment used for covert, emergency or tactical operations of a response agency, other than records relating to expenditures for such equipment.

(f) Documents, records or other items of information regarding the infrastructure and security of frequencies for radio transmissions used by response agencies, including, without limitation:

(1) Access codes, passwords or programs used to ensure the security of frequencies for radio transmissions used by response agencies;

(2) Procedures and processes used to ensure the security of frequencies for radio transmissions used by response agencies; and

(3) Plans used to reestablish security and service with respect to frequencies for radio transmissions used by response agencies after security has been breached or service has been interrupted.

(g) Vulnerability assessments and emergency response plans of utilities in this State.

3. If a person knowingly and unlawfully discloses a document, record or other item of information subject to an executive order issued pursuant to subsection 1 or assists, solicits or conspires with another person to disclose such a document, record or other item of information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

4. As used in this section, "public safety and public health personnel" includes:

(a) State, county and city emergency managers;

(b) Members and staff of terrorism early warning centers or fusion intelligence centers in this State;

(c) Employees of fire-fighting or law enforcement agencies, if the head of the agency has designated the employee as having an operational need to know information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism; and

(d) Employees of a public health agency, if the agency is one that would respond to a disaster and if the head of the agency has designated the employee as having an operational need to know information that is prepared or maintained for the purpose of preventing or responding to an act of terrorism. As used in this paragraph, "disaster" has the meaning ascribed to it in NRS 414.0335.

Sec. 3. NRS 239C.270 is hereby amended to read as follows:

239C.270 1. Each utility shall:

(a) Conduct a vulnerability assessment in accordance with the requirements of the federal and regional agencies that regulate the utility; and

(b) Prepare and maintain an emergency response plan in accordance with the requirements of the federal and regional agencies that regulate the utility.

2. Each utility shall:

(a) As soon as practicable but not later than December 31, 2003, submit its vulnerability assessment and emergency response plan to the Division; and

(b) At least once each year thereafter, review its vulnerability assessment and emergency response plan and, as soon as practicable after its review is completed but not later than December 31 of each year, submit the results of its review and any additions or modifications to its emergency response plan to the Division.

3. Except as otherwise provided in NRS 239.0115, each vulnerability assessment and emergency response plan of a utility and any other information concerning a utility that is necessary to carry out the provisions of this section is confidential and must be securely maintained by each person or entity that has possession, custody or control of the information.

4. ~~[A]~~ ***Except as otherwise provided in NRS 239C.210, a*** person shall not disclose such information, except:

(a) Upon the lawful order of a court of competent jurisdiction;

(b) As is reasonably necessary to carry out the provisions of this section or the operations of the utility, as determined by the Division;

(c) As is reasonably necessary in the case of an emergency involving public health or safety, as determined by the Division; or

(d) Pursuant to the provisions of NRS 239.0115.

5. If a person knowingly and unlawfully discloses such information or assists, solicits or conspires with another person to disclose such information, the person is guilty of:

(a) A gross misdemeanor; or

(b) A category C felony and shall be punished as provided in NRS 193.130 if the person acted with the intent to:

(1) Commit, cause, aid, further or conceal, or attempt to commit, cause, aid, further or conceal, any unlawful act involving terrorism or sabotage; or

(2) Assist, solicit or conspire with another person to commit, cause, aid, further or conceal any unlawful act involving terrorism or sabotage.

Sec. 4. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 307.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 98.

AN ACT relating to property taxes; revising provisions governing the publication of certain information relating to property taxes for ~~[certain]~~ counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires a ~~[county whose population is 100,000 or more (currently Clark and Washoe Counties)]~~ **board of county commissioners** to publish the annual list of all taxpayers on the secured roll and the property values only on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor, thereby removing the requirement to publish this information in a newspaper of general circulation in the county or to mail the list to each taxpayer. ~~[There are no changes to the requirements of publication for a county whose population is less than 100,000. (NRS 361.300)]~~

Section 2 of this bill amends the requirements for **publishing** notices of delinquencies for ~~[a county whose population is 100,000 or more,]~~ **counties by** providing for publication of such notices on the website or other Internet site. ~~[There are no changes to the requirements for publication of delinquencies for a county whose population is less than 100,000. (NRS 361.565)]~~

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

Section 1. NRS 361.300 is hereby amended to read as follows:

361.300 1. On or before January 1 of each year, the county assessor shall transmit to the county clerk, post at the front door of the courthouse and publish in a newspaper published in the county a notice to the effect that the

secured tax roll is completed and open for inspection by interested persons of the county.

2. If the county assessor fails to complete the assessment roll in the manner and at the time specified in this section, the board of county commissioners shall not allow him a salary or other compensation for any day after January 1 during which the roll is not completed, unless excused by the board of county commissioners.

3. ~~[Except as otherwise provided in subsection 4, each]~~ ***Each*** board of county commissioners ~~*[of a county whose population is 100,000 or more]*~~ shall by resolution, before December 1 of any fiscal year in which an assessment is made, require the county assessor to prepare a list of all the taxpayers on the secured roll in the county and the total valuation of property on which they severally pay taxes and direct the county assessor ~~[:]~~ ***to cause such list and valuations to be posted on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor.***

~~*[4. Except as otherwise provided in subsection 5, each board of county commissioners of a county whose population is less than 100,000 shall by resolution, before December 1 of any fiscal year in which assessment is made, require the county assessor to prepare a list of all the taxpayers on the secured roll in the county and the total valuation of property on which they severally pay taxes and direct the county assessor:*~~

~~(a) To cause such list and valuations to be printed and delivered by the county assessor or mailed by him on or before January 1 of the fiscal year in which assessment is made to each taxpayer in the county; or~~

~~(b) To cause such list and valuations to be published once on or before January 1 of the fiscal year in which assessment is made in a newspaper of general circulation in the county.~~

~~• In addition to complying with paragraph (a) or (b), the]~~

4. The list and valuations may also be posted in a public area of the public libraries and branch libraries located in the county, ~~[in a public area of]~~ the county courthouse ~~[and]~~ ***or*** the county office building in which the county assessor's office is located***.*** ~~[, and on a website or other Internet site that is operated or administered by or on behalf of the county or county assessor.]~~

~~[~~4.~~]~~ ~~*[5. A board of county commissioners of a county whose population is less than $100,000*~~ may, in the resolution required by subsection~~]~~ ~~[~~3,~~]~~ ~~*[4,*~~ authorize the county assessor not to deliver or mail the list, as provided in paragraph (a) of subsection~~]~~ ~~[~~3,~~]~~ ~~*[4,*~~ to taxpayers whose property is assessed at $1,000 or less and direct the county assessor to mail to each such taxpayer a statement of the amount of his assessment. Failure by a taxpayer to receive such a mailed statement does not invalidate any assessment.~~]~~

5. ~~*[6.]*~~ The several boards of county commissioners in the State may allow the bill contracted with their approval by the county assessor under this

section on a claim to be allowed and paid as are other claims against the county.

6. ~~*[7.]*~~ Whenever property is appraised or reappraised pursuant to NRS 361.260, the county assessor shall, on or before December 18 of the fiscal year in which the appraisal or reappraisal is made, deliver or mail to each owner of such property a written notice stating the assessed valuation of the property as determined from the appraisal or reappraisal.

7. ~~*[8.]*~~ If the secured tax roll is changed pursuant to NRS 361.310, the county assessor shall mail an amended notice of assessed valuation to each affected taxpayer. The notice must include:

(a) The information set forth in subsection 6 ~~*[7]*~~ for the new assessed valuation.

(b) The dates for appealing the new assessed valuation.

8. ~~*[9.]*~~ Failure by the taxpayer to receive a notice required by this section does not invalidate the appraisal or reappraisal.

9. ~~*[10.]*~~ In addition to complying with subsections 6 ~~*[7]*~~ and 7. ~~*[8,]*~~ a county assessor shall:

(a) Provide without charge a copy of a notice of assessed valuation to the owner of the property upon request.

(b) Post the information included in a notice of assessed valuation on a website or other Internet site ~~**[**, if any,**]**~~ that is operated or administered by or on behalf of the county or the county assessor.

Sec. 2. NRS 361.565 is hereby amended to read as follows:

361.565 1. ~~**[**Except as otherwise provided in subsection 3, if**]**~~ ***If*** the tax remains delinquent 30 days after the first Monday in April of each year, the tax receiver of the county shall cause notice of the delinquency to be published at least once ***on the website or other Internet site that is operated or administered by or on behalf of the county or county assessor*** ~~*[or*~~ in the ~~newspaper which publishes the list of taxpayers**]**~~ pursuant to ~~*[subsection 3 or 4 of]*~~ NRS 361.300 . ~~*[, as appropriate. If there is no Internet site for the county or county assessor or*~~ newspaper in the county, ~~the notice must be posted in at least five conspicuous places within the county.**]***~~

2. The cost of publication in each case must be charged to the delinquent taxpayer, and is not a charge against the State or county. The publication must be made at not more than legal rates.

3. ~~**[**If the delinquent property consists of unimproved real estate assessed at a sum not exceeding $25, the notice must be given by posting a copy of the notice in three conspicuous places within the county without publishing the notice in a newspaper.~~

~~**4.]**~~ The notice must contain the information required for a notice mailed pursuant to NRS 361.5648.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblywoman McClain moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 317.

Bill read second time.

The following amendment was proposed by the Committee on Taxation:

Amendment No. 143.

AN ACT relating to taxation; providing for the disbursement of a portion of the proceeds of the state tax imposed on certain businesses to regional organizations for economic development; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the Department of Taxation to disburse to a regional organization for economic development which directly assists in the location or expansion of a business in this State, other than a gaming business, 50 percent of the state business tax paid by that business for 10 fiscal years as a result of the location or expansion of the business in this State. The total amount of these disbursements, together with any other amounts allocated by the Legislature, to such a regional organization during any fiscal year is limited to $1 million. The money disbursed to such a regional organization must be used to promote economic development in this State and not for administrative expenses.

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

Section 1. Chapter 363B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, the Department shall, on a quarterly basis, disburse to an eligible organization 50 percent of the amount of tax paid by an employer pursuant to NRS 363B.110, after the deduction of any abatements and exemptions to which that employer is entitled, which is attributable to any employment that results from the location or expansion, with the direct assistance of that eligible organization, of the business of that employer in this State. The provisions of this subsection apply only to the applicable amount of tax paid by the employer for each calendar quarter that:

(a) Commences not less than 30 days after the eligible organization files with the Department an affidavit, executed by an officer of the employer, stating that the eligible organization directly:

(1) Recruited the employer to locate its business in this State or otherwise directly assisted the employer to locate its business in this State; or

(2) Assisted the employer with the expansion of its existing business in this State; and

(b) Ends not later than the last day of the 10th fiscal year after the commencement of the pertinent location or expansion by the employer of its business in this State.

2. The total amount disbursed to each eligible organization during each fiscal year pursuant to this section, together with any other amounts allocated or appropriated by the Legislature to the eligible organization for that fiscal year, must not exceed $1,000,000.

3. Any money disbursed to an eligible organization pursuant to this section:

(a) Must be expended by the eligible organization to promote the advantages of locating or expanding businesses in this State, to recruit and attract businesses from outside this State, to retain and expand businesses in this State, and to engage in research and analysis in support of economic development in this State; and

(b) Must not be expended for any administrative expenses of the eligible organization.

4. The Department may:

(a) Require an eligible organization to submit such documentation as the Department determines to be necessary for the administration of this section.

(b) Refuse to make any further disbursements of money pursuant to this section to an eligible organization that:

(1) Fails or refuses to submit any documentation as required by the Department pursuant to paragraph (a); or

(2) Expends any money received pursuant to this section in a manner that does not comply with the requirements of subsection 3.

5. Any disbursement of money to an eligible organization pursuant to this section shall be deemed to constitute an appropriation of public money for the purposes of NRS 218.855.

6. For the purposes of this section:

(a) "Eligible organization" means a regional organization for economic development ~~*[whose service territory includes a county whose population is 100,000 or more,]*~~ ***which is recognized by the Commission on Economic Development and which:***

(1) Operates on a nonprofit basis;

(2) Receives funding from dues paid by the members of the organization; and

(3) Does not constitute a government, governmental agency or political subdivision of a government.

(b) "Employer" does not include any employer who is required to hold a license issued by the Nevada Gaming Commission pursuant to title 41 of NRS.

Sec. 2. NRS 363B.060 is hereby amended to read as follows:

363B.060 The Department shall:

1. Administer and enforce the provisions of this chapter, and may adopt such regulations as it deems appropriate for those purposes.

2. ~~[~~Deposit~~]~~ ***Except as otherwise provided in section 1 of this act, deposit*** all taxes, interest and penalties it receives pursuant to this chapter in the State Treasury for credit to the State General Fund.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblywoman McClain moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 387.

Bill read second time.

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

Amendment No. 490.

AN ACT relating to public utilities; requiring public utilities to submit certain information regarding renewable energy to the Public Utilities Commission of Nevada; authorizing the Commission to approve construction or expansion of transmission facilities based on an expectation of future renewable energy development; revising provisions requiring certain providers of electric service to comply with a portfolio standard for renewable energy; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section ~~[3]~~ 6 of this bill requires a utility to submit with its plan to increase its supply of electricity or decrease the demands made by its customers a description of specific geographic zones where renewable energy could be used to generate electricity but transmission facilities are inadequate to deliver such electricity to customers.

Section ~~[4]~~ 7 of this bill requires the Public Utilities Commission of Nevada to consider the level of financial commitment from developers of renewable energy projects when evaluating a plan submitted pursuant to NRS 704.741.

Section ~~[5]~~ 8 of this bill allows the Commission to accept a transmission plan if it would help the utility to meet the portfolio standard defined in NRS 704.7805**.** ~~[~~regardless of the actual use of the facilities by the utility. Section 5 also: (1) deems any facility acquired or constructed pursuant to an approved transmission plan to be a prudent investment; and (2) allows a utility to recover certain costs for such a facility.~~]~~

Section ~~[1]~~ 4.3 of this bill requires the Commission ~~[~~and any public utility that files a plan pursuant to NRS 704.741~~]~~ to report to the Director of the Legislative Counsel Bureau by February 15 of each odd-numbered year concerning any transmission plan proposed or accepted since the last report.

Section ~~[6]~~ 9 of this bill revises the amount of electricity that a provider must generate, acquire or save to satisfy the portfolio standard from ~~[~~2013~~]~~ **2025** onward. **Section ~~[6]~~ 9** also revises the amount of electricity that must be generated or acquired from solar energy renewable systems to satisfy the portfolio standard ~~[.]~~ **from 2015 onward. Additionally, section 9 exempts**

providers of new electric resources from the portfolio standard that is applicable to other providers of electric service.

Section 4.7 of this bill creates a portfolio standard specifically for electricity sold by providers of new electric resources. Sections 10.3 and 10.7 of this bill revise provisions governing providers of new electric resources to comport with the provisions of section 4.7 of this bill.

Section ~~[8]~~ 11 of this bill requires the plan described in **section ~~[3]~~ 6** to be filed not later than January 1, 2011. **Section 12 of this bill requires the Commission to adopt regulations designating renewable energy zones not later than January 1, 2010.**

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

Section 1. **NRS 701B.290 is hereby amended to read as follows:**

701B.290 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 **~~[.]~~** ***and section 4.7 of this act.***

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.

3. All portfolio energy credits issued for a solar energy system installed pursuant to the Solar Program must be assigned to and become the property of the utility administering the Program.

Sec. 2. **NRS 701B.640 is hereby amended to read as follows:**

701B.640 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 ***and section 4.7 of this act*** 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. 3. **NRS 701B.870 is hereby amended to read as follows:**

701B.870 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 ***and section 4.7 of this act*** 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.

~~[Section 1.]~~ ***Sec. 4.*** Chapter 704 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 4.3 and 4.7 of this act**.

Sec. 4.3. ~~*[1.]*~~ ***On or before February 15 of each odd-numbered year, the Commission shall review, approve and submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling all information about any transmission plan proposed or adopted by the Commission since the last report.***

~~*[2. On or before February 15 of each odd-numbered year, a public utility required to file a plan pursuant to NRS 704.741 shall submit to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling all information about any transmission plan proposed or adopted by the Commission for that public utility since the last report.]*~~

Sec. 4.7. ***1. If the Commission issues an order approving an application that is filed pursuant to NRS 704B.310 or a request that is filed pursuant to NRS 704B.325 regarding a provider of new electric resources and an eligible customer, the Commission must establish in the order a portfolio standard applicable to the electricity sold by the provider of new electric resources to the eligible customer in accordance with the order. Except as otherwise provided in subsection 2, the portfolio standard must require the provider of new electric resources to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is:***

(a) If the order was issued during or before calendar year 2008, not less than 9 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.

(b) If the order was issued in calendar year 2009 or 2010, not less than 12 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.

(c) If the order was issued in calendar year 2011 or 2012, not less than 15 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.

(d) If the order was issued in calendar year 2013 or 2014, not less than 18 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.

(e) If the order was issued in calendar year 2015 through 2024, inclusive, not less than 20 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.

(f) If the order was issued in calendar year 2025 or any calendar year thereafter, not less than 25 percent of the total amount of electricity sold by the provider of new electric resources to the eligible customer each calendar year in accordance with the order.

2. If the Commission, pursuant to section 10.3 of this act, approves an increase in the amount of electricity that an eligible customer may purchase from a provider of new electric resources, the Commission shall establish in the order approving the increase a new portfolio standard applicable to the electricity sold by the provider of new electric resources to the eligible customer in accordance with the orders described in this subsection and subsection 1. The new portfolio standard must require the provider of new electric resources to generate, acquire or save electricity from portfolio energy systems or efficiency measures in an amount that is not less than the applicable percentage in subsection 1 which corresponds to the calendar year in which the Commission issues the order approving the increase.

3. Of the total amount of electricity that a provider of new electric resources 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.

4. If, for the benefit of one or more eligible customers, the eligible customer of a provider of new electric resources has paid for or 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 of new electric resources generated or acquired from a renewable energy system for the purposes of complying with its portfolio standard.

5. As used in this section:

(a) "Eligible customer" has the meaning ascribed to it in NRS 704B.080.

(b) "Provider of new electric resources" has the meaning ascribed to it in NRS 704B.130.

~~[Sec. 2.]~~ ***Sec. 5.*** NRS 704.736 is hereby amended to read as follows:

704.736 The application of NRS 704.736 to 704.751, inclusive, ***and section*** ~~*[1]*~~ ***4.3 of this act*** is limited to any public utility in the business of supplying electricity which has an annual operating revenue in this state of $2,500,000 or more.

~~[Sec. 3.]~~ ***Sec. 6.*** NRS 704.741 is hereby amended to read as follows:

704.741 1. A utility which supplies electricity in this State shall, on or before July 1 of every third year, in the manner specified by the Commission, submit a plan to increase its supply of electricity or decrease the demands made on its system by its customers to the Commission.

2. The Commission shall, by regulation ~~[, prescribe]~~ **:**

(a) Prescribe the contents of such a plan including, but not limited to, the methods or formulas which are used by the utility to:

~~[(a)]~~ ***(1)*** Forecast the future demands; and

~~[(b)]~~ ***(2)*** Determine the best combination of sources of supply to meet the demands or the best method to reduce them ~~[.]~~ ***; and***

(b) Designate renewable energy zones and revise the designated renewable energy zones as the Commission deems necessary.

3. The Commission shall require the utility to include in its plan an energy efficiency program for residential customers which reduces the consumption of electricity or any fossil fuel. The energy efficiency program must include, without limitation, the use of new solar thermal energy sources.

4. The Commission shall require the utility to include in its plan ~~*[a description of specific geographic zones where renewable energy resources are sufficient to develop substantial generation capacity and where inadequate transmission constrains the delivery of electricity from those resources to customers. The description must include]*~~ ***a plan for construction or expansion of transmission facilities*** ~~*[for each zone in a manner that is beneficial and cost-effective for the customers of the utility.]*~~ ***to serve renewable energy zones.***

5. As used in this section, "renewable energy zones" means specific geographic zones where renewable energy resources are sufficient to develop generation capacity and where transmission constrains the delivery of electricity from those resources to customers.

~~[Sec. 4.]~~ ***Sec. 7.*** NRS 704.746 is hereby amended to read as follows:

704.746 1. 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.

6. The Commission shall:

(a) Consider the level of financial commitment from developers of renewable energy projects in each ~~[geographic]~~ renewable energy zone, as ~~[described]~~ designated pursuant to subsection ~~[4]~~ 2 of NRS 704.741; and

(b) Adopt regulations establishing a process for considering such commitments ~~[.]~~ including, without limitation, contracts for the sale of energy, leases of land and mineral rights, cash deposits and letters of credit.

~~[Sec. 5.]~~ ***Sec. 8.*** NRS 704.751 is hereby amended to read as follows:

704.751 1. After a utility has filed 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.

4. The Commission may accept a transmission plan submitted pursuant to subsection 4 of NRS 704.741 for a ~~[geographic]~~ renewable energy zone if the Commission determines that the construction or expansion of transmission facilities would facilitate the utility meeting the portfolio standard, as defined in NRS 704.7805 . ~~[, regardless of the extent of the actual use of the facilities by the utility. In deciding whether to accept the transmission plan, the Commission need not consider the adequacy of existing service or the need for additional service.]~~

5. ~~[Once a transmission plan submitted pursuant to subsection 4 of NRS 704.741 is accepted by the Commission, acquisition or construction of a facility described in the plan shall be deemed a prudent investment and the utility may recover all just and reasonable costs of planning and constructing~~

~~*the facility in an appropriate proceeding before the Commission pursuant to NRS 704.110.]*~~ ***The Commission shall adopt regulations establishing the criteria for determining the adequacy of a transmission plan submitted pursuant to subsection 4 of NRS 704.741.***

Sec. 8.2. **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. The net energy measurement must be calculated in the following manner:

(a) The utility shall measure, in kilowatt-hours, the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(b) If the electricity supplied by the utility exceeds the electricity generated by the customer-generator which is fed back to the utility during the billing period, the customer-generator must be billed for the net electricity supplied by the utility.

(c) If the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period:

(1) Neither the utility nor the customer-generator is entitled to compensation for the electricity provided to the other during the billing period.

(2) The excess electricity which is fed back to the utility during the billing period is carried forward to the next billing period as an addition to the kilowatt-hours generated by the customer-generator in that billing period. If the customer-generator is billed for electricity pursuant to a time-of-use rate schedule, the excess electricity carried forward must be added to the same time-of-use period as the time-of-use period in which it was generated unless the subsequent billing period lacks a corresponding time-of-use period. In that case, the excess electricity carried forward must be apportioned evenly among the available time-of-use periods.

(3) Excess electricity may be carried forward to subsequent billing periods indefinitely, but a customer-generator is not entitled to receive compensation for any excess electricity that remains if:

(I) The net metering system ceases to operate or is disconnected from the utility's transmission and distribution facilities;

(II) The customer-generator ceases to be a customer of the utility at the premises served by the net metering system; or

(III) The customer-generator transfers the net metering system to another person.

(4) The value of the excess electricity 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 ~~[.]~~ ***, and section 4.7 of this act.***

(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 ***and section 4.7 of this act*** 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. 8.4. **NRS 704.7801 is hereby amended to read as follows:**

704.7801 As used in NRS 704.7801 to 704.7828, inclusive, ***and section 4.7 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 704.7802 to 704.7819, inclusive, have the meanings ascribed to them in those sections.

Sec. 8.6. **NRS 704.7805 is hereby amended to read as follows:**

704.7805 "Portfolio standard" means the amount of electricity that a provider must generate, acquire or save from portfolio energy systems or efficiency measures, as established by the Commission pursuant to NRS 704.7821 ~~[.]~~ ***and section 4.7 of this act.***

Sec. 8.8. **NRS 704.7815 is hereby amended to read as follows:**

704.7815 "Renewable energy system" means:

1. A facility or energy system that:

(a) Uses renewable energy or energy from a qualified energy recovery process to generate electricity; and

(b) Transmits or distributes the electricity that it generates from renewable energy or energy from a qualified energy recovery process via:

(1) A power line which is dedicated to the transmission or distribution of electricity generated from renewable energy or energy from a qualified energy recovery process and which is connected to a facility or system owned, operated or controlled by a provider of electric service; ~~[or]~~

(2) A power line which is shared with not more than one facility or energy system generating electricity from nonrenewable energy and which is connected to a facility or system owned, operated or controlled by a provider of electric service ~~[.]~~ ***; or***

(3) A power line which:

(I) Is connected to a facility or system owned, operated or controlled by a provider of electric service; and

(II) Is not owned, operated or controlled by the provider of electric service.

2. A solar energy system that reduces the consumption of electricity or any fossil fuel.

3. A net metering system used by a customer-generator pursuant to NRS 704.766 to 704.775, inclusive.

~~[Sec. 6.]~~ ***Sec. 9.*** 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 ~~[20]~~ 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]~~ ***years*** 2015 ~~[2025 and for each calendar year thereafter,]~~ ***through 2024, inclusive,*** not less than 20 ~~[25]~~ percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

(g) For calendar year 2025 and for each calendar year thereafter, not less than 25 percent of the total amount of electricity sold by the provider to its retail customers in this State during that calendar year.

2. ~~[Except as otherwise provided in subsection 3, in]~~ ***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 ***:***

(1) For calendar years 2009 through 2014, inclusive, 5 ~~[6]~~ percent of that amount must be generated or acquired from solar renewable energy systems.

(2) For calendar year 2015 and for each calendar year thereafter, 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. ~~[The provisions of paragraphs (b) and (c) of subsection 2 do not apply to a provider of new electric resources pursuant to chapter 704B of NRS with respect to its use of an energy efficiency measure that is financed by a customer, or which is a geothermal energy system for the provision of heated water to one or more customers and which reduces the consumption of electricity or any fossil fuel, except that, 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.~~

~~4.]~~ If, for the benefit of one or more retail customers in this State, the provider ~~[, or the customer of a provider of new electric resources pursuant to chapter 704B of NRS,]~~ has paid for or 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.

~~[5.]~~ ***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.

~~[6.]~~ ***5.*** Except as otherwise provided in subsection ~~[7,]~~ ***6,*** each provider shall comply with its portfolio standard during each calendar year.

~~[7.]~~ ***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.

~~[8.]~~ ***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. The provisions of this section do not apply to a provider of new electric resources as defined in NRS 704B.130.

9. 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. 9.3. **NRS 704.7822 is hereby amended to read as follows:**

704.7822 For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[,]~~ ***or section 4.7 of this act,*** a provider shall be deemed to have generated or acquired 2.4 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a solar photovoltaic system, if:

1. The system is installed on the premises of a retail customer; and

2. On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer on that premises.

Sec. 9.5. **NRS 704.7823 is hereby amended to read as follows:**

704.7823 1. Except as otherwise provided in subsection 2, any electricity generated by a provider using any system that involves drawing or creating electricity from tires must be deemed to have not come from a renewable energy system for the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[,]~~ ***or section 4.7 of this act.***

2. For the purpose of complying with a portfolio standard established pursuant to NRS 704.7821 ~~[,]~~ ***or section 4.7 of this act,*** a provider shall be deemed to have generated or acquired 0.7 kilowatt-hours of electricity from a renewable energy system for each 1.0 kilowatt-hour of actual electricity generated or acquired from a system that utilizes a reverse polymerization process, if:

(a) The system is installed on the premises of a retail customer; and

(b) On an annual basis, at least 50 percent of the electricity generated by the system is utilized by the retail customer on that premises.

3. As used in this section:

(a) "Reverse polymerization process" means a process that generates electricity from a tire that:

(1) Uses microwave reduction; and

(2) Does not involve combustion of the tire.

(b) "Tire" includes any tire for any vehicle or device in, upon or by which any person or property is or may be transported or drawn upon land.

Sec. 9.7. **NRS 704.7828 is hereby amended to read as follows:**

704.7828 1. The Commission shall adopt regulations to carry out and enforce the provisions of NRS 704.7801 to 704.7828, inclusive ~~[,]~~ ***, and section 4.7 of this act.*** The regulations adopted by the Commission may include any enforcement mechanisms which are necessary and reasonable to ensure that each provider of electric service complies with its portfolio standard. Such enforcement mechanisms may include, without limitation, the imposition of administrative fines.

2. If a provider does not comply with its portfolio standard for any calendar year and the Commission has not exempted the provider from the requirements of its portfolio standard pursuant to NRS 704.7821 ~~[,]~~ ***or section 4.7 of this act,*** the Commission may impose an administrative fine against the provider or take other administrative action against the provider, or do both.

3. The Commission may impose an administrative fine against a provider based upon:

(a) Each kilowatt-hour of electricity that the provider does not generate, acquire or save from portfolio energy systems or efficiency measures during a calendar year in violation of its portfolio standard; or

(b) Any other reasonable formula adopted by the Commission.

4. In the aggregate, the administrative fines imposed against a provider for all violations of its portfolio standard for a single calendar year must not exceed the amount which is necessary and reasonable to ensure that the

provider complies with its portfolio standard, as determined by the Commission.

5. If the Commission imposes an administrative fine against a utility provider:

(a) The administrative fine is not a cost of service of the utility provider;

(b) The utility provider shall not include any portion of the administrative fine in any application for a rate adjustment or rate increase; and

(c) The Commission shall not allow the utility provider to recover any portion of the administrative fine from its retail customers.

6. All administrative fines imposed and collected pursuant to this section must be deposited in the State General Fund.

~~[Sec. 7.]~~ ***Sec. 10.*** NRS 704.873 is hereby amended to read as follows:

704.873 If a public utility that is subject to the provisions of NRS 704.736 to 704.751, inclusive, ***and section*** ~~*[1]*~~ ***4.3 of this act*** applies to the Commission for a permit for the construction of a utility facility:

1. The Commission has exclusive jurisdiction with regard to the determination of whether a need exists for the utility facility; and

2. No other permitting entity may consider, in its review of any application for a permit, license or other approval for the construction of the utility facility, whether a need exists for the utility facility.

Sec. 10.3. **Chapter 704B of NRS is hereby amended by adding thereto a new section to read as follows:**

Before an eligible customer may increase the amount of electricity the eligible customer purchases from a provider of new electric resources in accordance with an order of the Commission which approved an application filed pursuant to NRS 704B.310 or a request filed pursuant to NRS 704B.325, the eligible customer must apply to and receive approval from the Commission for the increase. If the Commission approves the increase, the Commission must issue a written order approving the increase.

Sec. 10.5. **NRS 704B.320 is hereby amended to read as follows:**

704B.320 1. For eligible customers whose loads are in the service territory of an electric utility that primarily serves densely populated counties, the aggregate amount of energy that all such eligible customers purchase from providers of new electric resources before July 1, 2003, must not exceed 50 percent of the difference between the existing supply of energy generated in this State that is available to the electric utility and the existing demand for energy in this State that is consumed by the customers of the electric utility, as determined by the Commission.

2. An eligible customer that is a nongovernmental commercial or industrial end-use customer whose load is in the service territory of an electric utility that primarily serves densely populated counties shall not purchase energy, capacity or ancillary services from a provider of new electric resources unless, as part of the proposed transaction, the eligible customer agrees to:

(a) Contract with the provider to purchase:

(1) An additional amount of energy which is equal to 10 percent of the total amount of energy that the eligible customer is purchasing for its own use under the proposed transaction and which is purchased at the same price, terms and conditions as the energy purchased by the eligible customer for its own use; and

(2) The capacity and ancillary services associated with the additional amount of energy at the same price, terms and conditions as the capacity and ancillary services purchased by the eligible customer for its own use; and

(b) Offers to assign the rights to the contract to the electric utility for use by the remaining customers of the electric utility.

3. If an eligible customer is subject to the provisions of subsection 2, the eligible customer shall include with its application filed pursuant to NRS 704B.310 all information concerning the contract offered to the electric utility that is necessary for the Commission to determine whether it is in the best interest of the remaining customers of the electric utility for the electric utility to accept the rights to the contract. Such information must include, without limitation, the amount of the energy and capacity to be purchased under the contract, the price of the energy, capacity and ancillary services and the duration of the contract.

4. Notwithstanding any specific statute to the contrary, information concerning the price of the energy, capacity and ancillary services and any other terms or conditions of the contract that the Commission determines are commercially sensitive:

(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate and his staff and the electric utility for the purposes of carrying out the provisions of this section; and

(b) Except as otherwise provided in NRS 239.0115, shall be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.

5. If the Commission determines that the contract:

(a) Is not in the best interest of the remaining customers of the electric utility, the electric utility shall not accept the rights to the contract, and the eligible customer is entitled to all rights to the contract.

(b) Is in the best interest of the remaining customers of the electric utility, the electric utility shall accept the rights to the contract and the eligible customer shall assign all rights to the contract to the electric utility. A contract that is assigned to the electric utility pursuant to this paragraph shall be deemed to be an approved part of the resource plan of the electric utility and a prudent investment, and the electric utility may recover all costs for the energy, capacity and ancillary services acquired pursuant to the contract. To the extent practicable, the Commission shall take actions to ensure that the electric utility uses the energy, capacity and ancillary services acquired pursuant to each such contract only for the benefit of the remaining

customers of the electric utility that are not eligible customers, with a preference for the remaining customers of the electric utility that are residential customers with small loads.

6. The provisions of this section do not exempt the electric utility, in whole or in part, from the requirements imposed on the electric utility pursuant to NRS 704.7801 to 704.7828, inclusive, ***and section 4.7 of this act,*** to comply with its portfolio standard. The Commission shall not take any actions pursuant to this section that conflict with or diminish those requirements.

Sec. 10.7. **NRS 704B.325 is hereby amended to read as follows:**

704B.325 1. An eligible customer that is purchasing energy, capacity or ancillary services from a provider of new electric resources may purchase energy, capacity or ancillary services from an alternative provider without obtaining the approval of the Commission if the terms and conditions of the transaction with the alternative provider, other than the price of the energy, capacity or ancillary services, conform to the terms and conditions of the transaction that was originally approved by the Commission with respect to the eligible customer.

2. If any terms and conditions of the transaction with the alternative provider, other than the price of the energy, capacity or ancillary services, do not conform to the terms and conditions of the transaction that was originally approved by the Commission with respect to the eligible customer, the eligible customer must obtain approval from the Commission before those nonconforming terms and conditions are enforceable.

3. If the eligible customer files a request with the Commission for approval of any nonconforming terms and conditions, the Commission shall review and make a determination concerning the request on an expedited basis. ***If the Commission approves the request, the Commission must issue a written order approving the request.***

4. Notwithstanding any specific statute to the contrary, information concerning any terms and conditions of the transaction with the alternative provider that the Commission determines are commercially sensitive:

(a) Must not be disclosed by the Commission except to the Regulatory Operations Staff of the Commission, the Consumer's Advocate and his staff and the affected electric utility for the purposes of carrying out the provisions of this section; and

(b) Except as otherwise provided in NRS 239.0115, shall be deemed to be confidential for all other purposes, and the Commission shall take such actions as are necessary to protect the confidentiality of such information.

~~[Sec. 8.]~~ ***Sec. 11.*** Any public utility required to file a plan pursuant to NRS 704.741 that would not otherwise be required to file a new plan before January 1, 2011, shall submit an amendment to its existing plan by January 1, 2011, that complies with the provisions relating to a transmission plan in **NRS 704.741, as amended by** section ~~[3]~~ **6** of this act.

Sec. 11.5. **If the Public Utilities Commission of Nevada issued an order before July 1, 2009, to which paragraph (a) or (b) of subsection 1 of section 4.7 of this act applies, the Commission must revise the order, as needed, to meet the requirements of paragraph (a) or (b) of subsection 1 of section 4.7 of this act, as applicable. For the purposes of section 4.7 of this act, a revised order issued in accordance with this section shall be deemed to have been issued on the date that the original order was issued.**

Sec. 12. **The Public Utilities Commission of Nevada shall, not later than January 1, 2010, adopt regulations that designate renewable energy zones as defined in NRS 704.741, as amended by section 6 of this act.**

~~[Sec. 9.]~~ ***Sec. 13.*** **1.** This act becomes effective on July 1, 2009.

2. Sections 2 and 3 of this act expire by limitation on June 30, 2011.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 397.

Bill read second time.

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

Amendment No. 371.

SUMMARY—Authorizes redevelopment agencies to expend money to improve schools located within ~~[redevelopment]~~ **certain** areas ~~[.]~~ **under certain circumstances.** (BDR 22-130)

AN ACT relating to community redevelopment; authorizing redevelopment agencies to expend money **, subject to certain limitations,** to improve schools located within ~~[redevelopment areas;]~~ **certain cities or counties; requiring redevelopment agencies to file certain reports with the Director of the Legislative Counsel Bureau and with their respective governing bodies;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the legislative body of a community, having recognized the need for a redevelopment agency to function in the community, to establish a redevelopment revolving fund. (NRS 279.386, 279.396, 279.410, 279.620) Existing law also specifies the manner in which, and the permissible purposes for which, money may be expended from the redevelopment revolving fund. (NRS 279.628) This bill expands the permissible purposes for which money may be expended from a redevelopment revolving fund to include use by a redevelopment agency for the improvement **, with certain limitations,** of schools in a **city or county with a** redevelopment area ~~[.]~~ **within its boundaries.**

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

Section 1. **Chapter 279 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. In addition to the report required pursuant to the provisions of subsection 2, and subject to the provisions of subsection 3, for each redevelopment area for which a redevelopment plan is adopted pursuant to the provisions of NRS 279.586 after the effective date of this act, on or before the January 1 next after the adoption of the plan, the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area:

(a) A legal description of the boundaries of the redevelopment area;

(b) The date on which the redevelopment plan for the redevelopment area was adopted;

(c) The scheduled termination date of the redevelopment plan;

(d) The total sum of the assessed value of the taxable property in the redevelopment area for:

(1) The fiscal year immediately preceding the adoption of the redevelopment plan; and

(2) The fiscal year during which the redevelopment plan was adopted, if such fiscal year ends before the reporting deadline;

(e) The combined overlapping tax rate of the redevelopment area;

(f) The property tax rate of the redevelopment area;

(g) The property tax revenue expected to be received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area during the first fiscal year that the agency will receive an allocation pursuant to the provisions of NRS 279.676;

(h) Copies of any memoranda of understanding that the agency enters into during the fiscal year in which the redevelopment plan was adopted; and

(i) The amortization schedule for any debt incurred for the redevelopment area and the reasons for incurring the debt.

2. On or before January 1 of each year, for each redevelopment area for which a redevelopment plan has been adopted pursuant to the provisions of NRS 279.586, the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area for the previous fiscal year:

(a) The property tax revenue received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area;

(b) The combined overlapping tax rate of the redevelopment area;

(c) The property tax rate of the redevelopment area;

(d) The total sum of the assessed value of the taxable property in the redevelopment area;

(e) If the amount reported pursuant to the provisions of paragraph (d) is less than the amount reported pursuant to the provisions of paragraph (d), or for any other previous fiscal year, an explanation of the reason for the difference;

(f) Copies of any memoranda of understanding that the agency enters into;

(g) The amortization schedule for any debt incurred for the redevelopment area, and the reasons for incurring the debt; and

(h) Any change to the boundary of the redevelopment area and an explanation of the reason for the change.

3. Any report for a redevelopment area submitted pursuant to the provisions of subsection 1 must be submitted with the report for the redevelopment area submitted pursuant to the provisions of subsection 2.

Sec. 2. **NRS 279.382 is hereby amended to read as follows:**

279.382 The provisions contained in NRS 279.382 to 279.685, inclusive, ***and section 1 of this act,*** may be cited as the Community Redevelopment Law.

Sec. 3. **NRS 279.384 is hereby amended to read as follows:**

279.384 As used in NRS 279.382 to 279.685, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 279.386 to 279.414, inclusive, have the meanings ascribed to them in those sections.

~~[Section 1.]~~ ***Sec. 4.*** NRS 279.628 is hereby amended to read as follows:

279.628 1. By resolution of the legislative body adopted by a majority vote any money in the redevelopment revolving fund may be expended from time to time for:

(a) The acquisition of real property in any redevelopment area.

(b) The clearance, aiding in relocation of occupants of the site and preparation of any redevelopment area for redevelopment.

2. By resolution of the legislative body adopted by a two-thirds vote, any money in the redevelopment revolving fund may be paid to the agency, upon such terms and conditions as the legislative body may prescribe for any of the following purposes:

(a) Deposit in a trust fund to be expended for the acquisition of real property in any redevelopment area.

(b) The clearance of any redevelopment area for redevelopment.

(c) Any expenses necessary or incidental to the carrying out of a redevelopment plan which has been adopted by the legislative body.

(d) ~~*[To]*~~ ***Subject to the provisions of subsection 3, to be used by the agency for the improvement of schools in*** ~~*[any redevelopment area.]*~~ ***the community.***

3. Money paid to the agency pursuant to paragraph (d) of subsection 2 may only be in the form of grants and may not be used for any regular expenses of a school.

Sec. 5. **On or before January 1, 2010, for each redevelopment area for which a redevelopment plan has been adopted pursuant to the provisions of NRS 279.586, the agency shall submit to the Director of the Legislative Counsel Bureau, for transmittal to the Legislature, and to the legislative body a report on a form prescribed by the Committee on Local Government Finance that includes, without limitation, the following information for the redevelopment area:**

1. A legal description of the boundaries of the redevelopment area;

2. The date on which the redevelopment plan for the redevelopment area was adopted;

3. The scheduled termination date of the redevelopment plan;

4. The total sum of the assessed value of the taxable property in the redevelopment area for:

(a) The fiscal year immediately preceding the adoption of the redevelopment plan; and

(b) The fiscal year during which the redevelopment plan was adopted;

5. The combined overlapping tax rate of the redevelopment area;

6. The property tax rate of the redevelopment area;

7. The property tax revenue received from any tax increment area, as defined in NRS 278C.130, within the redevelopment area for the fiscal year ending June 30, 2009;

8. Copies of any memoranda of understanding that the agency enters into during the fiscal year ending June 30, 2009; and

9. The amortization schedule for any debt incurred for the redevelopment area and the reasons for incurring the debt.

~~[Sec. 2.]~~ ***Sec. 6.*** This act becomes effective upon passage and approval.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Remarks by Assemblywoman Kirkpatrick.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 448.

Bill read second time.

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

Amendment No. 441.

AN ACT relating to energy; ~~[providing for the participation in the Solar Energy Systems Incentive Program of a utility that operates a solar energy system pursuant to a solar power purchase agreement; requiring the Public Utilities Commission of Nevada to establish and maintain an Internet website to provide certain information to applicants for participation in the Solar Program; requiring a participant in the Solar Program to complete installation of a solar energy system within a specified time; providing for the withdrawal of a participant from the Solar Program or the Wind Energy~~

~~Systems Demonstration Program under certain circumstances;~~**]** **revising provisions governing participation in and the administration of the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Solar Energy Systems Incentive Program **, the Wind Energy Systems Demonstration Program and the Waterpower Energy Systems Demonstration Program** to provide incentives to persons to install solar energy systems **, wind energy systems and waterpower energy systems on certain property. (NRS 701B.010-701B.290, 701B.400-701B.650, 701B.700-701B.890)** **[**~~on: (1) private residential and small business property; (2) public and other property; and (3) school property. (NRS 701B.010-701B.290) Participation in the Solar Program is limited, and the total amount of capacity allocated to each category of participation in the Solar Program is capped. Section 13 of this bill removes the limitations on the total amount of capacity allocated to the categories of participation in the Solar Program and instead provides for limitations on the capacity allocated to individual systems in the Solar Program. Section 13 also authorizes the Public Utilities Commission of Nevada to waive the limitations on capacity for individual systems under certain circumstances. (NRS 701B.260)~~

~~Section 12 of this bill requires an applicant to submit with his application to participate in the Solar Program an estimate of the cost of the installation of the solar energy system. (NRS 701B.250) In addition, section 3 of this bill requires an applicant for participation in the category of private residential property to: (1) obtain an evaluation of the energy consumption of the residential property; and (2) include a copy of the evaluation with his application. Section 6 of this bill requires the Commission to establish and maintain an Internet website to provide an applicant for participation in the Solar Program with access to information concerning the status of his application.~~

~~Section 11 of this bill requires the Commission to adopt regulations establishing the qualifications and requirements which a utility that is a party to a solar power purchase agreement must meet to participate in the Solar Program and to be eligible to receive incentives offered through the Solar Program. (NRS 701B.210)~~

~~Section 4 of this bill provides that the installation of a solar energy system on public property is deemed to be a public work for the purposes of chapters 338 and 341 of NRS, regardless of whether the installation of the solar energy system is financed in whole or in part by public money.~~

~~Section 14 of this bill requires the Commission to withdraw a participant from the Solar Program if he does not finalize the contract for installation of the solar energy system or complete installation of the solar energy system within a specified time. (NRS 701B.270) Section 5 of this bill authorizes the~~

~~Commission to grant a waiver from withdrawal to a participant who fails to finalize such a contract or complete the installation of a solar energy system within the prescribed period. Sections 7 and 17 of this bill establish similar provisions governing the withdrawal of participants from the Wind Energy Systems Demonstration Program. (NRS 701B.580, 701B.630)~~]

Sections 2, 3 and 7-14 of this bill revise provisions governing the Solar Energy Systems Incentive Program. Section 10 requires the Public Utilities Commission of Nevada to adopt regulations to carry out the Solar Program in a manner designed to meet the goal of the Legislature of the installation of not less than 50 megawatts of solar energy systems in this State by 2019. (NRS 701B. 200)

Sections 4, 5 and 15-20 of this bill revise provisions governing the Wind Energy Systems Demonstration Program. Section 19 requires the Commission to adopt regulations to carry out the Wind Demonstration Program in a manner designed to meet the goal of the Legislature of the installation of not less than 5 megawatts of wind energy systems in this State by 2012. (NRS 701B.590)

Sections 6 and 21-26 of this bill revise provisions governing the Waterpower Energy Systems Demonstration Program. Section 25 requires the Commission to carry out the Waterpower Demonstration Program in a manner designed to meet the goal of the Legislature of the installation of not less than 500 kilowatts of waterpower energy systems in this State by 2012. (NRS 701B.840)

Section 27 of this bill repeals certain provisions relating to the renewable energy programs, including provisions which authorize the Task Force for Renewable Energy and Energy Conservation to administer certain provisions relating to the renewable energy programs and provisions which place certain capacity limits on participation in the programs. (NRS 701B.100, 701B.170, 701B.220, 701B.260, 701B.270, 701B.490, 701B.530, 701B.610, 701B.620, 701B.630, 701B.760, 701B.770, 701B.830, 701B.850, 701B.890)

Section 28 of this bill requires the Commission to adopt regulations to carry out the renewable energy programs consistent with the provisions of chapter 701B of NRS as amended by this bill. Section 28 also provides that the incentives offered to participants in each of the programs on July 1, 2008, must continue to be offered to participants in the program unless and until the Commission establishes different incentives. Section 28 further requires that any capacity from previous program years which was authorized for the Solar Energy Systems Incentive Program and which remains unallocated on July 1, 2009, be allocated as soon as practicable to qualified applicants who were placed on the prioritized waiting list established pursuant to the former provisions of NRS 701B.260 before July 1, 2009.

Section 29 of this bill requires the Commission to conduct a study concerning performance-based rebates, including, without limitation,

feed-in tariffs and standard offer contracts for renewable energy production and, on or before July 1, 2010, to submit a written report of the study to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

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

Delete existing sections 1 through 18 of this bill and replace with the following new sections 1 through 30:

Section 1. **Chapter 701B is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.**

Sec. 2. ***The installation of a solar energy system on public property pursuant to NRS 701B.010 to 701B.290, inclusive, and sections 2 and 3 of this act shall be deemed to be a public work for the purposes of chapters 338 and 341 of NRS, regardless of whether the installation of the solar energy system is financed in whole or in part by public money.***

Sec. 3. ***1. After reviewing an application submitted pursuant to NRS 701B.250 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Solar Program, a utility shall select the applicant for participation in the Solar Program.***

2. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

3. After the utility selects an applicant to participate in the Solar Program, the utility may approve the solar energy system proposed by the applicant. Upon the utility's approval of the solar energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the solar energy system is eligible; and

(b) The applicant may install and energize the solar energy system.

4. Upon the completion of the installation and energizing of the solar energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

5. Upon receipt of an incentive claim form submitted pursuant to subsection 4 and verification that the solar energy system is properly connected, the utility shall issue an incentive payment to the participant.

6. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Solar Program, except that an applicant forfeits his eligibility for that amount of incentive if the applicant withdraws from participation in the Solar Program or does not complete the installation of his solar energy system within 12 months after the date on which the applicant is selected for participation in the Solar Program. An applicant who forfeits his eligibility for the incentive for which the applicant was

originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of his solar energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the installation of his solar energy system.

Sec. 4. The installation of a wind energy system on public property pursuant to NRS 701B.400 to 701B.650, inclusive, and sections 4 and 5 of this act shall be deemed to be a public work for the purposes of chapters 338 and 341 of NRS, regardless of whether the installation of the wind energy system is financed in whole or in part by public money.

Sec. 5. 1. An applicant who wishes to participate in the Wind Demonstration Program must submit an application to a utility.

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility shall select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the wind energy system proposed by the applicant. Upon the utility's approval of the wind energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the wind energy system is eligible; and

(b) The applicant may install and energize the wind energy system.

5. Upon the completion of the installation and energizing of the wind energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of an incentive claim form submitted pursuant to subsection 5 and verification that the wind energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Program, except that an applicant forfeits his eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the installation of his wind energy system within 12 months after the date on which the applicant is selected for participation in the Program. An applicant who forfeits his eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the installation of his wind energy system, and the amount of the incentive for which such an applicant is eligible must be

determined on the date on which the applicant completes the installation of his wind energy system.

Sec. 6. ***1. An applicant who wishes to participate in the Waterpower Demonstration Program must submit an application to a utility.***

2. After reviewing an application submitted pursuant to subsection 1 and ensuring that the applicant meets the qualifications and requirements to be eligible to participate in the Program, a utility shall select the applicant for participation in the Program.

3. Not later than 30 days after the date on which the utility selects an applicant, the utility shall provide written notice of the selection to the applicant.

4. After the utility selects an applicant to participate in the Program, the utility may approve the waterpower energy system proposed by the applicant. Upon the utility's approval of the waterpower energy system:

(a) The utility shall provide to the applicant notice of the approval and the amount of incentive for which the waterpower energy system is eligible; and

(b) The applicant may construct the waterpower energy system.

5. Upon the completion of the construction of a waterpower energy system, the participant must submit to the utility an incentive claim form and any supporting information, including, without limitation, a verification of the cost of the project and a calculation of the expected system output.

6. Upon receipt of an incentive claim form submitted pursuant to subsection 5 and verification that the waterpower energy system is properly connected, the utility shall issue an incentive payment to the participant.

7. The amount of the incentive for which an applicant is eligible must be determined on the date on which the applicant is selected for participation in the Program, except that an applicant forfeits his eligibility for that amount of incentive if the applicant withdraws from participation in the Program or does not complete the construction of his waterpower energy system within 12 months after the date on which the applicant is selected for participation in the Program. An applicant who forfeits his eligibility for the incentive for which the applicant was originally determined to be eligible may become eligible for an incentive only on the date on which the applicant completes the construction of his waterpower energy system, and the amount of the incentive for which such an applicant is eligible must be determined on the date on which the applicant completes the construction of his waterpower energy system.

Sec. 7. **NRS 701B.010 is hereby amended to read as follows:**

701B.010 The provisions of NRS 701B.010 to 701B.290, inclusive, ***and sections 2 and 3 of this act*** apply to the Solar Energy Systems Incentive Program.

Sec. 8. **NRS 701B.020 is hereby amended to read as follows:**

701B.020 As used in NRS 701B.010 to 701B.290, inclusive, ***and sections 2 and 3 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 701B.030 to 701B.180, inclusive, have the meanings ascribed to them in those sections.

Sec. 9. **NRS 701B.080 is hereby amended to read as follows:**

701B.080 "Participant" means a person who has been selected by ~~[the Task Force]~~ ***a utility*** to participate in the Solar Program.

Sec. 10. **NRS 701B.200 is hereby amended to read as follows:**

701B.200 The Commission shall adopt regulations necessary to carry out the provisions of NRS 701B.010 to 701B.290, inclusive, ***and sections 2 and 3 of this act,*** 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.]~~ ***capacity goals for the Solar Program designed to meet the goal of the Legislature of the installation of not less than 50 megawatts of solar energy systems in this State by 2019 and the goals for each category of the Solar Program.***

2. A system of incentives that are based on rebates that decline as the capacity goals for the Solar Program and the goals for each category of the Solar Program are met. The rebates must be structured to reduce the cost of solar energy systems and must be based on predicted energy savings.

3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

Sec. 11. **NRS 701B.210 is hereby amended to read as follows:**

701B.210 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 Task Force pursuant to NRS 701B.250.]~~ ***an energy audit or survey of the property of a participant in the Solar Program.***

Sec. 12. **NRS 701B.230 is hereby amended to read as follows:**

701B.230 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.]~~ ***2. A utility shall include in the report required pursuant to NRS 704.7825 a report of the performance of the Solar Program for the previous calendar year and any other information required by the Commission.***

3. A utility may recover its reasonable and prudent costs, including, without limitation, customer 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.

4. A utility shall establish and maintain an Internet website to provide an applicant with the ability to access information concerning the status of his application and the status of the incentives available for each category of the Solar Program.

Sec. 13. **NRS 701B.240 is hereby amended to read as follows:**

701B.240 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 NRS 701B.210;

(b) Submit an application to a utility and be selected by the ~~[Task Force]~~ ***utility*** for inclusion in the Solar Program pursuant to NRS 701B.250 and ~~[701B.260;]~~ ***section 3 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. 14. **NRS 701B.250 is hereby amended to read as follows:**

701B.250 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]~~ ***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 Task Force:~~

~~(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 NRS 701B.260.]~~

Sec. 15. **NRS 701B.400 is hereby amended to read as follows:**

701B.400 NRS 701B.400 to 701B.650, inclusive, ***and sections 4 and 5 of this act*** may be cited as the Wind Energy Systems Demonstration Program Act.

Sec. 16. **NRS 701B.410 is hereby amended to read as follows:**

701B.410 As used in NRS 701B.400 to 701B.650, inclusive, ***and sections 4 and 5 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 701B.420 to 701B.560, inclusive, have the meaning ascribed to them in those sections.

Sec. 17. **NRS 701B.470 is hereby amended to read as follows:**

701B.470 "Participant" means a person who has been selected by ~~[the Task Force]~~ ***a utility*** pursuant to ~~[NRS 701B.620]~~ ***section 5 of this act*** to participate in the Wind Demonstration Program.

Sec. 18. **NRS 701B.580 is hereby amended to read as follows:**

701B.580 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 NRS 701B.590;

(b) Submit an application to a utility and be selected by the ~~[Task Force]~~ ***utility*** for inclusion in the Program pursuant to ~~[NRS 701B.610 and 701B.620,]~~ ***section 5 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. 19. **NRS 701B.590 is hereby amended to read as follows:**

701B.590 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.~~**]** ***capacity goals for the Program designed to meet the goal of the Legislature of the installation of not less than 5 megawatts of wind energy systems in this State by 2012 and the goals for each category of the Program.***

2. A system of incentives that are based on rebates that decline as the capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.

3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

Sec. 20. **NRS 701B.600 is hereby amended to read as follows:**

701B.600 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 NRS 701B.610.~~**]**

2. ***A utility shall include in the report required pursuant to NRS 704.7825 a report of the performance of the Program for the previous calendar year and any other information required by the Commission.***

3. A utility may recover its reasonable and prudent costs, including, without limitation, customer 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.

4. A utility shall establish and maintain an Internet website to provide an applicant with the ability to access information concerning the status of his application and the status of the incentives available for each category of the Program.

Sec. 21. **NRS 701B.700 is hereby amended to read as follows:**

701B.700 NRS 701B.700 to **[**~~701B.890,~~**]** ***701B.880,*** inclusive, ***and section 6 of this act*** may be cited as the Waterpower Energy Systems Demonstration Program Act.

Sec. 22. **NRS 701B.710 is hereby amended to read as follows:**

701B.710 As used in NRS 701B.700 to **[**~~701B.890,~~**]** ***701B.880,*** inclusive, ***and section 6 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 701B.720 to 701B.810, inclusive, have the meanings ascribed to them in those sections.

Sec. 23. **NRS 701B.740 is hereby amended to read as follows:**

701B.740 "Participant" means a person who has been selected by **[**~~the Commission~~**]** ***a utility*** to participate in the Waterpower Demonstration Program.

Sec. 24. **NRS 701B.820 is hereby amended to read as follows:**

701B.820 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 ***a utility*** and be selected by the ~~[Task Force]~~ ***utility*** 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. 25. **NRS 701B.840 is hereby amended to read as follows:**

701B.840 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.]~~ ***capacity goals for the Program designed to meet the goal of the Legislature of the installation of not less than 500 kilowatts of waterpower energy systems in this State by 2012 and the goals for each category of the Program.***

2. A system of incentives that are based on rebates that decline as the capacity goals for the Program and the goals for each category of the Program are met. The rebates must be based on predicted energy savings.

3. The procedure for claiming incentives, including, without limitation, the form and content of the incentive claim form.

Sec. 26. **NRS 701B.860 is hereby amended to read as follows:**

701B.860 ***1.*** Each utility may recover its reasonable and prudent costs, including, without limitation, customer 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.

2. A utility shall include in the report required pursuant to NRS 704.7825 a report of the performance of the Program for the previous calendar year and any other information required by the Commission.

3. A utility shall establish and maintain an Internet website to provide an applicant with the ability to access information concerning the status of

his application and the status of the incentives available for each category of the Program.

Sec. 27. **NRS 701B.100, 701B.170, 701B.220, 701B.260, 701B.270, 701B.490, 701B.530, 701B.610, 701B.620, 701B.630, 701B.760, 701B.770, 701B.830, 701B.850 and 701B.890 are hereby repealed.**

Sec. 28. **1. On or before February 1, 2010, the Public Utilities Commission of Nevada shall adopt the regulations to carry out:**

(a) The provisions of NRS 701B.010 to 701B.290, inclusive, as amended by this act, and sections 2 and 3 of this act;

(b) The provisions of NRS 701B.400 to 701B.650, inclusive, as amended by this act, and sections 4 and 5 of this act; and

(c) The provisions of NRS 701B.700 to 701B.880, inclusive, as amended by this act, and section 6 of this act.

2. The incentives offered to participants in the Solar Energy Systems Incentive Program on July 1, 2008, must remain in effect unless or until the Commission establishes different incentives pursuant to the regulations adopted pursuant paragraph (a) of subsection 1.

3. Any capacity from previous program years which was authorized for the Solar Energy Systems Incentive Program pursuant to the former provisions of NRS 701B.260, and any regulations adopted pursuant thereto, and which remains unallocated on July 1, 2009, must be allocated as soon as practicable to qualified applicants who were placed on the prioritized waiting list established pursuant to the former provisions of NRS 701B.260 and any regulations adopted pursuant thereto before July 1, 2009, and such applicants must be offered the incentives which were offered to participants in the Solar Program on July 1, 2008.

4. The incentives offered to participants in the Wind Energy Systems Demonstration Program on July 1, 2008, must remain in effect during the period the Program is in effect unless or until the Commission establishes different incentives pursuant to the regulations adopted pursuant to paragraph (b) of subsection 1.

5. The incentives offered to participants in the Waterpower Energy Systems Demonstration Program on July 1, 2008, must remain in effect during the period the Program is in effect unless or until the Commission establishes different incentives pursuant to the regulations adopted pursuant to paragraph (c) of subsection 1.

Sec. 29. **The Public Utilities Commission of Nevada shall:**

1. Conduct a study concerning performance-based rebates, including, without limitation, feed-in tariffs and standard offer contracts for renewable energy production; and

2. On or before July 1, 2010, submit a written report of the study conducted pursuant to subsection 1 to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature.

Sec. 30. **1. This act becomes effective on July 1, 2009.**

2. Sections 4, 5, 6 and 15 to 26, inclusive, of this act expire by limitation on June 30, 2011.

LEADLINES OF REPEALED SECTIONS

701B.100 "Program year" defined.

701B.170 "Task Force" defined.

701B.220 Regulations: Establishment of incentives for participation.

701B.260 Capacity allocated to each category; reallocation of capacity; procedure for selection and notification of participants; approval of applicant's solar energy system.

701B.270 Withdrawal of participant for noncompliance; forfeiture of incentives.

701B.490 "Program year" defined.

701B.530 "Task Force" defined.

701B.610 Duty of utility to file annual plan; review and approval of annual plan by Commission; procedure for recommendation and review of applications; capacity allocated to each category.

701B.620 Procedure for selection and notification of participants; reallocation of capacity; authorization to install or energize solar energy system while application is pending.

701B.630 Withdrawal of participant for noncompliance; forfeiture of incentives.

701B.760 "Program year" defined.

701B.770 "Task Force" defined.

701B.830 Duties of Task Force.

701B.850 Duty of utility to file annual plan; review of annual plan by Commission; procedure for recommendation and review of applications; capacity allocated to each category.

701B.890 Withdrawal of participant for noncompliance.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 470.

Bill read second time.

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

Amendment No. 525.

SUMMARY—Prohibits noncompete agreements ~~[for persons who hold a professional license.]~~ **with certain employees.** (BDR 53-1021)

AN ACT relating to employment practices; prohibiting noncompete agreements ~~[for persons who hold a professional license;]~~ **with an at-will employee other than a physician;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits any person, association, company or corporation from taking actions to prevent a person who leaves its employ from obtaining employment elsewhere in the State but allows a contract to prohibit an employee from pursuing a similar vocation in competition with or becoming employed by a competitor. (NRS 613.200) This bill ~~[prohibits]~~ **allows** such contracts ~~[with respect to a person who holds a professional license in this State.]~~ **only with employees who are not employed at-will and with physicians, homeopathic physicians and osteopathic physicians. Such contracts are not valid or enforceable if entered into with an at-will employee who is not a physician, homeopathic physician or osteopathic physician.**

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

Section 1. NRS 613.200 is hereby amended to read as follows:

613.200 1. Except as otherwise provided in this section, any person, association, company or corporation within this State, or any agent or officer on behalf of the person, association, company or corporation, who willfully does anything intended to prevent any person who for any cause left or was discharged from his or its employ from obtaining employment elsewhere in this State is guilty of a gross misdemeanor and shall be punished by a fine of not more than $5,000.

2. In addition to any other remedy or penalty, the Labor Commissioner may impose against each culpable party an administrative penalty of not more than $5,000 for each such violation.

3. If a fine or an administrative penalty is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Labor Commissioner.

4. The ~~*[Except as otherwise provided in subsection 5, the]*~~ provisions of this section do not prohibit a person, association, company, corporation, agent or officer from negotiating, executing and enforcing an agreement ***that is supported by valuable consideration and is otherwise reasonable in scope and duration*** with ~~[an]~~ **:**

(a) An employee of the person, association, company or corporation ***who is not an at-will employee or with a physician, homeopathic physician or osteopathic physician*** which, upon termination of the employment, prohibits the employee ***or physician*** from ~~[:~~

~~(a) Pursuing]~~ ***pursuing*** a similar vocation in competition with or becoming employed by a competitor of the person, association, company or corporation **.** ~~[; or]~~ ***Such an agreement is not valid or enforceable if entered into with an at-will employee who is not a physician, homeopathic physician or osteopathic physician.***

(b) ~~[Disclosing]~~ ***An employee of the person, association, company or corporation which, upon termination of the employment, prohibits the***

employee from disclosing any trade secrets, business methods, lists of customers, secret formulas or processes or confidential information learned or obtained during the course of his employment with the person, association, company or corporation**. [,**

~~• if the agreement is supported by valuable consideration and is otherwise reasonable in its scope and duration.~~

~~*5. The provisions of paragraph (a) of subsection 4 do not apply to any employee who holds a professional license pursuant to the provisions of title 54 of NRS.]~~ ***Such an agreement is valid and enforceable regardless of whether the employee is employed at-will.***

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 478.

Bill read second time.

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

Amendment No. 493.

AN ACT relating to governmental administration; revising provisions relating to certain housing authorities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth the Housing Authorities Law of 1947. (NRS 315.140-315.780) In relevant part, under the provisions of this Law, each county, city and town of the State has a housing authority which is a municipal corporation and which is presided over by five commissioners. (NRS 315.320, 315.370) The housing authorities governed by this Law exist primarily to ensure that veterans and persons of low income are able to find safe and sanitary housing at affordable prices. (NRS 315.330, 315.340, 315.440, 315.460, 315.510)

This bill, in a county whose population is 400,000 or more (currently Clark County), allows two or more (housing) authorities to form a regional (housing) authority. Such a regional authority is created by a resolution agreed to between or among, as applicable, the governing bodies of the local governments that desire to participate in the regional authority. A regional authority has the same powers and duties as a regular authority, except on an expanded geographic scale. **A regional authority also has the authority to repeal local laws, ordinances and regulations that are in conflict with each other. Upon the formation of a regional authority, the individual authorities of the county and the cities participating in the regional authority are dissolved.**

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

Section 1. Chapter 315 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 ~~[, 3 and 4]~~ **to 6, inclusive,** of this act.

Sec. 2. ***"Regional authority" means an authority formed pursuant to section 3 of this act.***

Sec. 3. ***1. In a county whose population is 400,000 or more, any two or more authorities may form a regional authority.***

2. To form a regional authority as described in subsection 1, the governing body of the county and the governing body of each city and town located within the county that desires to participate in the regional authority shall adopt a resolution setting forth:

(a) The intent to regionalize some or all of their powers;

(b) ~~*[The purpose of the]*~~ ***A reference to the development of a plan for transitioning to a regional authority*** ~~*[, which may include, without limitation:*~~

~~*(1) Aiding and cooperating with local agencies in the administration, planning, undertaking, construction and operation of housing projects to provide decent, safe and sanitary housing that is affordable to:*~~

~~*(I) Persons of low income; and*~~

~~*(II) Persons who are preferred tenants for the purposes of tenant selection as set forth in NRS 315.510; and*~~

~~*(2) Assisting local housing agencies in carrying out any other activities that are authorized pursuant to or in furtherance of the provisions of NRS 315.140 to 315.780, inclusive, and sections 2, 3 and 4 of this act;]*~~

(c) The geographic scope of the regional authority; ~~*[and]*~~

(d) That, upon the formation of the regional authority, any individual authorities of the local governments who form the regional authority are dissolved; and

(e) Such other matters as the governing bodies determine to be necessary or advisable.

3. If the formation of a regional authority pursuant to this section involves fiscal matters, the ownership of real property or the consolidation of functions, such matters must be resolved by written contract, agreement or other arrangement entered into by the governing bodies who form the regional authority.

Sec. 4. ***1. Upon the adoption of a resolution pursuant to section 3 of this act forming a regional authority,*** ~~*[five]*~~ ***nine persons must be appointed to serve as commissioners of the authority*** ~~*[. If the regional authority was formed by:*~~

~~*(a) A county and one other local government in that county:*~~

~~*(1)]*~~ ***as follows:***

(a) The governing body of the county shall appoint ~~*[three]*~~ ***two persons to serve as commissioners of the authority;*** ~~*[and*~~

~~*(2) The chief executive of the city or the]*~~

(b) The governing body of the ~~[town, as the case may be,]~~ largest city in the county shall appoint two persons to serve as commissioners of the authority ~~[:~~

~~(b) A county and two other local governments in that county:~~

~~(1)]~~ ;

(c) The governing body of the second largest city in the county shall appoint two persons to serve as commissioners of the authority;

~~[~~ ~~(2) With respect to the larger participating city or town, the chief executive of the city or the governing body of the town, as the case may be, shall appoint two persons to serve as commissioners of the authority; and~~

~~(3) With respect to the smaller participating city or town, the chief executive of the city or the governing body of the town, as the case may be, shall appoint one person to serve as a commissioner of the authority.~~

~~(c) A county and three other local governments in that county:~~

~~(1)]~~ (d) The governing body of the third largest city in the county shall appoint two persons to serve as commissioners of the authority; and

~~[~~ ~~(2) With respect to each of the other three participating cities or towns, the chief executive of the city or the governing body of the town, as the case may be, shall appoint one person to serve as a commissioner of the authority.~~

~~(d) A county and four other local governments in that county:~~

~~(1) The governing body of the county shall appoint one person to serve as a commissioner of the authority; and~~

~~(2) With respect to each of the other four participating cities or towns, the chief executive of the city or the governing body of the town, as the case may be, shall appoint one person to serve as a commissioner of the authority.~~

~~2. Three]~~

(e) One commissioner who serves on behalf of tenants must be selected as described in subsection 3.

➥ None of the persons appointed to serve as commissioners of the authority may be elected officials of any governmental entity.

2. Six of the commissioners who are first appointed pursuant to subsection 1 must be designated to serve for terms of 1, 2 and 3 years, respectively, from the date of their appointment, and ~~[two]~~ three must be designated to serve for terms of 4 years from the date of their appointment, but thereafter commissioners must be appointed for a term of office of 4 years. The persons appointed initially to serve as commissioners pursuant to subsection 1 shall determine by lot whether they are designated pursuant to this subsection to serve for a term of 1 year, 2 years, 3 years or 4 years.

3. The ~~[first commissioner appointed after the authority has provided assistance to at least eight persons]~~ commissioner who serves on behalf of tenants must be a current recipient of assistance from the authority who was selected from a list of at least five eligible nominees submitted for this purpose by an organization which represents tenants of housing projects. If no such organization exists, the commissioner must be selected from a list of nominees submitted for this purpose from persons who currently receive

assistance from the authority. Thereafter, at least one commissioner must be such a recipient who was nominated and appointed in the same manner. If, during his term, the commissioner ceases to be a recipient of assistance, he must be replaced in the manner set forth in this subsection by a person who is a recipient of assistance.

4. In making the appointments described in subsection 1, the relevant local governments shall seek recommendations for appointment from a diverse background of interests with a view toward:

(a) Balancing gender and ethnicity; and

(b) Soliciting appointees who have experience in fields such as, without limitation:

(1) Real estate;

(2) Financial planning;

(3) Legal aid;

(4) Education;

(5) Public safety;

(6) The provision of public services; and

(7) The assistance of persons of low income.

5. All vacancies must be filled for the unexpired term.

Sec. 5. A regional authority may, in addition to exercising the powers set forth in NRS 315.440 and 315.460 and any other relevant provisions of this chapter:

1. Repeal conflicting local laws, ordinances and regulations;

2. Jointly, or with another authority, exercise any powers, privileges and rights that are exercised or capable of being exercised by a local housing agency of this State; and

3. Exercise such other powers as the governing bodies of the local governments that formed the regional authority may agree upon.

Sec. 6. A regional authority may not request a reservation of land from the Bureau of Land Management unless the governing body of the jurisdiction within which the applicable land of the Bureau is located adopts a resolution of approval.

Sec. 7. **NRS 315.021 is hereby amended to read as follows:**

315.021 As used in NRS 315.021 to 315.071, inclusive, unless the context otherwise requires:

1. "Housing authority" means a housing authority created pursuant to this chapter. ***The term includes a regional authority formed pursuant to section 3 of this act.***

2. "Landlord" means a person who owns or manages any premises that he rents or leases to a tenant pursuant to a contract with a housing authority.

3. "Premises" means a particular apartment or other residential unit of public housing occupied by a tenant, or a residential unit that is occupied by a tenant pursuant to a federally assisted housing program administered by a housing authority.

4. ”Public housing” means the residential accommodations operated by a housing authority or a landlord.

~~[Sec. 5.]~~ ***Sec. 8.*** NRS 315.140 is hereby amended to read as follows:

315.140 NRS 315.140 to 315.780, inclusive, ***and sections 2 ~~[, 3 and 4]~~ to 6, inclusive, of this act*** may be referred to as the Housing Authorities Law of 1947.

~~[Sec. 6.]~~ ***Sec. 9.*** NRS 315.150 is hereby amended to read as follows:

315.150 Unless the context otherwise requires, the definitions contained in NRS 315.160 to 315.300, inclusive, ***and section 2 of this act*** govern the construction of NRS 315.140 to 315.780, inclusive ~~[.]~~ ***, and sections 2 ~~[, 3 and 4]~~ to 6, inclusive, of this act.***

~~[Sec. 7.]~~ ***Sec. 10.*** NRS 315.160 is hereby amended to read as follows:

315.160 1. In the case of an authority of a city or town, “area of operation” shall include such city or town and the area within 5 miles of the territorial boundaries thereof; but the area of operation of an authority of any city or town shall not include any area which lies within the territorial boundaries of some other city or town as herein defined, unless a resolution shall have been adopted by the governing body of such other city or town (and by any authority which shall have been theretofore established and authorized to exercise its powers in such city or town) declaring that there is a need for such authority to exercise its powers within that city or town.

2. In the case of an authority of a county, “area of operation” shall include all of the county for which it is created; but a county authority shall not undertake any housing project or projects within the boundaries of any city or town, as herein defined, unless a resolution shall have been adopted by the governing body of such city or town (and by any authority which shall have been theretofore established and authorized to exercise its powers in such city or town) declaring that there is a need for the county authority to exercise its powers within such city or town.

3. In the case of a regional authority, “area of operation” shall include:

(a) All of the territory within the geographic scope of the regional authority, as referred to in paragraph (c) of subsection 2 of section 3 of this act; and

(b) Any other territory regarding which the regional authority and another authority agree to exercise joint power or control.

~~[Sec. 8.]~~ ***Sec. 11.*** NRS 315.170 is hereby amended to read as follows:

315.170 ”Authority” means any of the public corporations created or authorized to be created by NRS 315.140 to 315.780, inclusive, ***and sections 2 ~~[, 3 and 4]~~ to 6, inclusive, of this act*** and any housing authority established and operating prior to July 1, 1975, under the provisions of the Housing Authorities Law of 1943 or the Housing Law of 1951. ***The term includes a regional authority.***

Sec. 12. **NRS 315.380 is hereby amended to read as follows:**

315.380 ***1.*** An authority shall select a chairman and a vice chairman from its commissioners.

2. For the purpose of managing a regional authority, the commissioners of the regional authority shall select an executive director by way of a competitive, open and public process.

~~[Sec. 9.]~~ ***Sec. 13.*** NRS 315.435 is hereby amended to read as follows:

315.435 Except as otherwise provided in NRS 315.9835, a housing authority shall not operate in any area in which an authority already established is operating without the consent by resolution of the authority already operating therein. ***For the purposes of this section, the formation of a regional authority pursuant to section 3 of this act shall be deemed to constitute consent by resolution of the authority of any participating local governmental entity.***

~~[Sec. 10.]~~ ***Sec. 14.*** NRS 315.440 is hereby amended to read as follows:

315.440 Within its area of operation, an authority may:

1. Prepare, carry out and operate housing projects and provide for the construction, reconstruction, improvement, extension, alteration, or repair of any such project or any part thereof.

2. Determine where there is unsafe, insanitary or overcrowded housing.

3. Make studies and recommendations relating to the problem of eliminating unsafe, insanitary or overcrowded housing.

4. Cooperate with the city, the county, the State, or any political subdivision thereof in action taken in connection with such problems.

5. If it is a regional authority, work cooperatively with the relevant local jurisdictions concerning new developments or housing projects, or both. The relevant local jurisdictions with which a regional authority works cooperatively concerning new developments or housing projects, or both, shall provide to the regional authority such support and assistance as the regional authority may require.

Sec. 15. **As soon as practicable after July 1, 2009, and after the adoption of a resolution pursuant to section 3 of this act, the governing bodies of Clark County, the City of Las Vegas, the City of Henderson and the City of North Las Vegas shall appoint the commissioners described in section 4 of this act.**

~~[Sec. 11.]~~ ***Sec. 16.*** ~~[This act becomes]~~

1. This section and sections 1 to 5, inclusive, and 7 to 15, inclusive, of this act become effective on July 1, 2009.

2. Section 6 of this act becomes effective on January 1, 2010.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 492.

Bill read second time.

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

Amendment No. 481.

SUMMARY—Imposes certain requirements on the enactment of **legislation and the provision of notice regarding certain tax** abatements and exemptions**. .** ~~[from property taxes and sales and use taxes.]~~ (BDR 32-602)

AN ACT relating to taxation; imposing certain requirements on the enactment of ~~[abatements and]~~ exemptions from property taxes and sales and use taxes; **imposing certain requirements on legislation revising the authority of the Commission on Economic Development to approve abatements of taxes; requiring the Commission to notify affected political subdivisions before taking action on such abatements;** requiring certain reports from the Department of Taxation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[This bill imposes various requirements upon]~~ **Section 1 of this bill carries out the provisions of Section 6 of Article 10 of the Nevada Constitution, which became effective on November 25, 2008, through the statutory imposition of those constitutional requirements regarding** the enactment by the Legislature of any ~~[legislation that authorizes, requires or increases the amount of any abatements or]~~ exemptions from property taxes or sales and use taxes**. .** ~~[.]~~

Existing law authorizes the Commission on Economic Development to grant to certain businesses partial abatements of property taxes, business taxes and local sales and use taxes. (NRS 274.310, 274.320, 274.330, 360.750, 361.0687, 363B.120, 374.357, 701A.210) Sections 2 and 3 of this bill impose various requirements upon future state legislation expanding the authority of the Commission to approve any abatements of taxes and ~~[requires]~~ **require** the Department of Taxation to prepare biennial reports for the Legislature on whether the costs of ~~[those]~~ **such future** abatements ~~[or exemptions]~~ exceed the benefits thereof. ~~[In addition to carrying out the provisions of Section 6 of Article 10 of the Nevada Constitution, which became effective on November 25, 2008, this bill makes all future abatements and exemptions of property taxes and sales and use taxes inapplicable to: (1) the portions of those taxes that are imposed for public education; and (2) any entity that receives other public funding or property at no cost or a reduced cost.]~~

Section 4 of this bill requires the Commission on Economic Development to provide notice to affected political subdivisions at least 30 days before taking action on an application for any abatement of taxes imposed on a business. Section 5 of this bill repeals various provisions which partially duplicate the provisions of section 4.

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

Section 1. Chapter 360 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 2, 3 and 4 of this act.**

Sec. 2. ~~*[1.]*~~ ***In accordance with Section 6 of Article 10 of the Constitution of the State of Nevada:***

~~*[(a)]*~~ ***1. The Legislature shall not enact an exemption from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail unless the Legislature finds that the exemption:***

~~*[(1)]*~~ ***(a) Will achieve a bona fide social or economic purpose and the benefits of the exemption are expected to exceed any adverse effect of the exemption on the provision of services to the public by the State or a local government that would otherwise receive revenue from the tax from which the exemption would be granted; and***

~~*[(2)]*~~ ***(b) Will not impair adversely the ability of the State or a local government to pay, when due, all interest and principal on any outstanding bonds or any other obligations for which revenue from the tax from which the exemption would be granted was pledged.***

~~*[(b)]*~~ ***2. In enacting an exemption from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail, the Legislature shall ensure that the requirements for claiming the exemption are as similar as practicable for similar classes of taxpayers.***

Sec. 3. ~~*[2.]*~~ ***1. Any state legislation enacted on or after July 1, 2009, which authorizes*** ~~*[,]*~~ ***or requires the Commission on Economic Development to approve any abatement of taxes or increases the amount of any abatement of*** ~~*[or exemption from any ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail:]*~~ ***taxes which the Commission is authorized or required to approve:***

(a) Expires by limitation 10 years after the effective date of that legislation.

(b) Does not apply to:

(1) Any taxes imposed ~~*[for public education;]*~~ ***pursuant to NRS 374.110 or 374.190; or***

(2) Any entity that receives:

(I) Any funding from a governmental entity, other than any private activity bonds as defined in 26 U.S.C. § 141; or

(II) Any real or personal property from a governmental entity at no cost or at a reduced cost.

(c) Requires each recipient of the abatement ~~*[or exemption]*~~ ***to submit to the Department, on or before the last day of each even-numbered year,*** ~~*[the*~~

~~results of an independent audit of the recipient provided in sufficient detail for the Department to determine]~~ **a report on whether the recipient is in compliance with the terms of the abatement . ~~for exemption and whether the costs of the abatement or exemption exceed the benefits of the abatement or exemption.]~~ The Department shall establish a form for the report and may adopt such regulations as it determines to be appropriate to carry out this paragraph. The report must include, without limitation:**

(1) The date the recipient commenced operation in this State;

(2) The number of employees actually employed by the recipient and the average hourly wage of those employees;

(3) An accounting of any fees paid by the recipient to the State and to local governmental entities;

(4) An accounting of the property taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(5) An accounting of the sales and use taxes paid by the recipient and the amount of those taxes that would have been due if not for the abatement;

(6) An accounting of the total capital investment made in connection with the project to which the abatement applies; and

(7) An accounting of the total investment in personal property made in connection with the project to which the abatement applies.

~~[3.]~~ 2. On or before ~~[February]~~ January 15 of each odd-numbered year, the Department shall:

(a) Based upon the information submitted to the Department pursuant to paragraph (c) of subsection ~~[2,]~~ 1, prepare a written report of its findings regarding whether the costs of the abatement ~~[or exemption]~~ exceed the benefits of the abatement ; ~~[or exemption;]~~ and

(b) Submit the report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

~~[4. As used in this section, "taxes imposed for public education" means:~~

~~(a) Any ad valorem tax authorized or required by chapter 387 of NRS;~~

~~(b) Any ad valorem tax authorized or required by chapter 350 of NRS for the obligations of a school district, including, without limitation, any ad valorem tax necessary to carry out the provisions of subsection 5 of NRS 350.020;~~

~~(c) The taxes imposed by NRS 374.110, 374.190 and 374A.010; and~~

~~(d) Any other ad valorem tax on property or excise tax on the sale, storage, use or consumption of tangible personal property sold at retail for which the proceeds thereof are dedicated to the public education of pupils in kindergarten through grade 12.]~~

Sec. 4. 1. If the Commission on Economic Development receives an application for any abatement of taxes imposed on a business, the Commission shall, at least 30 days before the meeting at which the Commission takes any action on the application, provide notice of the application to:

(a) The governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the business is or will be located; and

(b) The governing body of any other political subdivision that could be affected by the abatement.

2. The notice required by this section must set forth the date, time and location of the meeting at which the Commission on Economic Development will consider the application.

3. The Commission on Economic Development shall adopt regulations relating to the notice required by this section.

Sec. 5. **NRS 360.750 is hereby amended to read as follows:**

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

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

(a) The business is consistent with:

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

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

(b) The applicant has executed an agreement with the Commission which must:

(1) Comply with the requirements of NRS 360.755;

(2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection ~~[5,]~~ ***4,*** continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and

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

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

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

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

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

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly

wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

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

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

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

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

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

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

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

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

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

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

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

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

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either

paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

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

(II) The cost to the business for the benefits the business provides to its new employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

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

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

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

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

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

(II) The cost to the business for the benefits the business provides to its employees in this State will meet with minimum requirements established by the Commission by regulation pursuant to subsection ~~[9.]~~ ***8.***

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

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

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

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

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

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

4. ~~[If a person submits an application to the Commission on Economic Development pursuant to subsection 1, the Commission shall provide notice to the governing body of the county, the board of trustees of the school district and the governing body of the city or town, if any, in which the~~

~~person intends to locate or expand a business. The notice required pursuant to this subsection must set forth the date, time and location of the hearing at which the Commission will consider the application.~~

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

(a) The Department;

(b) The Nevada Tax Commission; and

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

~~6.~~ ***5.*** An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Commission on Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

~~7.~~ ***6.*** If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

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

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

➥ the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

~~8.~~ ***7.*** A county treasurer:

(a) Shall deposit any money that he receives pursuant to subsection ~~7~~ ***6*** in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

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

~~9.~~ ***8.*** The Commission on Economic Development:

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

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

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

(b) May adopt such other regulations as the Commission on Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~[10.]~~ ***9.*** The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

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

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

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.

~~[11.]~~ ***10.*** 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.

~~[Sec. 2.]~~ ***Sec. 6.*** This act becomes effective on July 1, 2009.

Assemblywoman Pierce moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 504.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 377.

SUMMARY— ~~[Authorizes local governmental agencies to use automated systems to enforce traffic laws.]~~ **Adds provisions relating to exchange and reporting of information relating to motor vehicle insurance.** (BDR 43-461)

AN ACT relating to traffic laws; ~~[authorizing the use by a local governmental agency of an automated enforcement system for gathering evidence to be used for the issuance of a traffic citation;]~~ **requiring the Department of Motor Vehicles to contract with an outside party to establish, maintain and operate a system for the exchange of information relating to the insurance status of motor vehicles; providing for components that must be included in the system; requiring insurers of motor vehicles to provide information each day to the Department regarding insurance policies issued, amended or terminated;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law prohibits a governmental entity and any agent thereof from using photographic, video or digital equipment to gather evidence for issuing traffic citations unless the equipment is handheld or installed in a vehicle or facility of a law enforcement agency. (NRS 484.910) This bill authorizes a local governmental agency to use an automated enforcement system,~~

~~including a red light camera, for gathering evidence to be used for the issuance of a traffic citation.~~] **Existing law requires the owner of a motor vehicle registered, or required to be registered, in this State to provide insurance for the motor vehicle. (NRS 485.185) Existing law also provides a means by which nonresident owners of motor vehicles not registered in this State may provide proof of financial responsibility. (NRS 485.309) Section 3 of this bill requires the Department of Motor Vehicles to contract with an outside party to establish, maintain and operate a system for the exchange of information relating to the insurance status of motor vehicles. Section 3 also lists the components that must be included in the system. Section 4 of this bill requires insurers of motor vehicles to provide information daily to the Department regarding insurance policies that have been issued, amended or terminated.**

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

Section 1. ~~[NRS 484.910 is hereby amended to read as follows:~~

~~484.910~~ ~~—~~ ~~[~~A~~]~~

~~*1. Except as otherwise provided in subsection 2, a* governmental entity and any agent thereof shall not use photographic, video or digital equipment for gathering evidence to be used for the issuance of a traffic citation for a violation of this chapter unless the equipment is held in the hand or installed temporarily or permanently within a vehicle or facility of a law enforcement agency.~~

~~*2. A local governmental agency may use an automated enforcement system for gathering evidence to be used for the issuance of a traffic citation for:*~~

~~*(a) A violation of this chapter.*~~

~~*(b) A violation of an ordinance, rule or regulation of the local governmental agency.*~~

~~*3. A local governmental agency that wishes to use an automated enforcement system pursuant to subsection 2 must:*~~

~~*(a) Provide for a public information campaign regarding the implementation of the automated enforcement system at least 30 days before the commencement of the use of the automated enforcement system.*~~

~~*(b) Identify the presence of an automated enforcement system by erecting signs which clearly indicate the presence of the automated enforcement system and which are visible to traffic approaching from all directions, or erect signs at all major entrances to its jurisdiction, including, without limitation, freeways, bridges and state highways.*~~

~~*4. A citation issued through the use of an automated enforcement system must:*~~

~~*(a) Insofar as practicable, comply with the applicable provisions of NRS 484.799;*~~

~~*(b) Be issued to the registered owner of the vehicle;*~~

~~*(c) Include or be accompanied by a photograph of the driver of the vehicle;*~~

~~*(d) Be mailed or otherwise delivered to the registered owner of the vehicle within 10 working days after the date of the incident; and*~~

~~*(e) Afford the person cited:*~~

~~*(1) The opportunity to appeal or otherwise challenge the citation by appearance before a magistrate, justice or judge, as appropriate; or*~~

~~*(2) The opportunity to respond by mail within 30 days after the mailing of the citation, by submitting to the court having jurisdiction over the alleged offense, a photocopy of the driver's license of the registered owner of the vehicle and a signed and notarized affidavit stating that the owner was not the driver of the vehicle. A court having jurisdiction over the alleged offense which receives an affidavit and photocopy pursuant to this subparagraph shall dismiss the citation without requiring a court appearance by the registered owner if it finds that there is reason to believe the registered owner was not the driver of the vehicle at the time of the incident.*~~

~~*5. A contract between a local governmental agency and a manufacturer or supplier of an automated enforcement system must:*~~

~~*(a) Require the manufacturer or supplier to provide sufficient evidence of a traffic violation in a timely manner to facilitate the issuance of a citation within the period prescribed in paragraph (d) of subsection 4; and*~~

~~*(b) Provide that the manufacturer or supplier must not receive:*~~

~~*(1) Any payments or compensation based on the number of citations issued; or*~~

~~*(2) A percentage of the revenue generated as a result of the use of the automated enforcement system.*~~

~~*6. As used in this section:*~~

~~*(a) "Automated enforcement system" means a contrivance, device or mechanism, or any combination thereof, which is used to obtain evidence of a moving traffic violation without operation by a person. The term includes, without limitation, a red light camera.*~~

~~*(b) "Red light camera" means a camera which:*~~

~~*(1) Is adapted for use or placed at an intersection or crosswalk in which movement of vehicles or pedestrians, or both, is controlled by an official traffic control device that is operated electrically, electronically or mechanically; and*~~

~~*(2) Is capable of photographing or otherwise capturing images or representations of the following in a simultaneous or approximately simultaneous manner:*~~

~~*(I) The license plate number of a vehicle;*~~

~~*(II) The signal displayed by or upon the official traffic control device as the vehicle enters or exits, or both, the intersection or crosswalk;*~~

~~*(III) The position of the vehicle within the intersection or crosswalk relative to the signal displayed by or upon the official traffic control device; and*~~

~~*(IV) The date and time.]*~~ **(Deleted by amendment.)**

Sec. 2. **Chapter 485 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 and 4 of this act.**

Sec. 3. ***1. The Department shall contract with an outside party to establish, maintain and operate a system for the electronic exchange of information relating to the insurance status of a motor vehicle with federal law enforcement agencies and with state and local law enforcement agencies outside of this State.***

2. The system must provide for, without limitation, the following:

(a) A check by a peace officer of the insurance status of a motor vehicle;

(b) A report by the Department of the insurance status of a motor vehicle registered in this State;

(c) A check by the Department of the insurance status of a motor vehicle when the owner of a motor vehicle registers the motor vehicle with the Department;

(d) A check by an attendant or emergency medical technician, as those terms are defined in NRS 450B.050 and 450B.065, respectively, of the insurance status of a motor vehicle involved in an accident, to the scene of which the attendant or emergency medical technician has been dispatched;

(e) A check by a financial institution of the insurance status of a motor vehicle being offered or serving as collateral for a loan granted by the financial institution;

(f) A check by a court of the insurance status of a motor vehicle registered to a person appearing before the court on charges relating to the insurance status of the motor vehicle;

(g) A check by a natural person, via an automated telephone system, of the insurance status of a motor vehicle;

(h) Subject to the provisions of subsection 3, a system to allow for the photographic capture of an image of the license plate of a motor vehicle for the purpose of verifying the insurance status of the motor vehicle; and

(i) By way of secure, dedicated and electronic portals to the system, the receipt by the following entities of information determined by the Department to be appropriate, from the system, immediately upon request:

(1) An insurance agent or broker licensed in this State;

(2) An association of insurance agents or brokers licensed in this State;

(3) An insurer licensed in this State;

(4) An association of insurers licensed in this State;

(5) A new or used motor vehicle dealer licensed in this State;

(6) A long-term or short-term lessor of motor vehicles licensed in this State;

(7) A financial institution with a lien on a motor vehicle registered or required to be registered in this State;

(8) An organization that works to prevent driving under the influence of alcohol or a controlled substance;

(9) A civil liberties or privacy advocacy group;

(10) A civil rights advocacy group; and

(11) A consumer organization.

3. If an image of the license plate of a motor vehicle is captured pursuant to the provisions of paragraph (h) of subsection 2 and the registered owner of the motor vehicle is providing valid insurance on the motor vehicle, the system provided for in paragraph (h) of subsection 2 shall not store, electronically or otherwise, the image or any other record of the motor vehicle for a period longer than 1 minute.

4. Any information exchanged pursuant to the provisions of this section must include only information relating to a motor vehicle and may not include any personal identifying information, including, without limitation, the name or address of any person.

5. A contract entered into by the Department pursuant to the provisions of this section must require the party with whom the Department contracts to provide all the money for the establishment of the system. The party may receive compensation for the establishment, maintenance and operation of the system only from revenues received by the State as a direct result of the operation of the system.

6. As used in this section, "insurance status of a motor vehicle" means the status of that motor vehicle regarding whether the registered owner of the motor vehicle is providing valid insurance on the motor vehicle as required pursuant to the provisions of NRS 485.185 or, for a motor vehicle not registered in this State, as required by the laws of the jurisdiction in which the motor vehicle is registered or is required to be registered.

Sec. 4. 1. In addition to any requirements of NRS 485.313 to 485.318, inclusive, each business day, each insurer that has executed a contract of insurance for a motor vehicle liability policy which may be used to meet the requirements of NRS 485.185 or 485.309 shall provide the Department with a record of each such policy issued, amended or terminated the previous day. The record must include:

(a) The number, effective date and expiration date of the policy;

(b) The make, model, year and vehicle identification number of each motor vehicle included in the policy; and

(c) The zip code of residence of the holder of the policy or, if the holder is not a resident of this State, the state of residence.

2. The record provided pursuant to subsection 1 must be submitted in a form approved by the Department.

3. The Department shall notify the Commissioner of Insurance if an insurer:

(a) Fails to comply with subsection 1 or 2; or

(b) In complying with subsection 1 or 2, provides to the Department information that is false, incomplete or misleading.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 81.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 49.

AN ACT relating to public safety; revising provisions relating to the information the Central Repository for Nevada Records of Criminal History is required to disseminate to a licensing agency and to a prospective or current employer and the purposes for which such information may be considered; repealing the provisions requiring the Director of the Department of Public Safety to establish a program to compile and analyze data concerning the recidivism of offenders who commit sexual offenses; **requiring the Director of the Department of Health and Human Services to establish a substantially similar program within the Department to compile and analyze data concerning the recidivism of juvenile sex offenders;** repealing the provisions creating the Repository for Information Concerning Missing Persons within the Central Repository; ~~[making various other changes relating to the powers and duties of the Central Repository;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.3 of this bill defines the term "records of criminal history of the United States or another state" for the purposes of disseminating certain information relating to certain offenses to employers and the use of such information.

Section 2 of this bill **.** ~~[: (1)]~~ authorizes the Records and Technology Division of the Department of Public Safety to request and receive from the Federal Bureau of Investigation information on the background and personal history of certain persons about whom an agency of this State or a local government is authorized by law to have accurate personal information for the protection of the agency or persons within the agency's jurisdiction **.** ~~[; and (2) eliminates the requirement that the Division investigate certain persons who operate or work for certain medical facilities and who work for certain organizations and agencies which provide personal care services. (NRS 179A.075) Section 17 of this bill requires the Office of Disability Services of the Department of Health and Human Services, rather than the Central Repository for Nevada Records of Criminal History, to review the record of criminal history and the report obtained from the Federal Bureau of Investigation for the purpose of making employment-related decisions concerning employees of certain organizations and agencies which provide~~

~~personal care services. (NRS 426.335) Sections 22 and 23 of this bill similarly amend existing law with regard to the review of such information by the Health Division of the Department for the purpose of making decisions relating to the licensure of persons who operate certain medical facilities and employment-related decisions concerning prospective and current employees of certain medical facilities. (NRS 449.176, 449.179)~~**] (NRS 179A.075)**

Section 3 of this bill **[**~~expands the information the Central Repository is required to disseminate to a licensing agency and to a prospective or current employer and authorizes the licensing agency to use the information in connection with licensure and the prospective or current employer to use the information in connection with employing or retaining an employee, prospective employee, volunteer or prospective volunteer. Section 3 also~~**]** **: (1) revises the circumstances in which an agency of criminal justice must provide records of criminal history to the Division of Welfare and Supportive Services of the Department of Health and Human Services or to the Aging Services Division of the Department; and (2)** removes the requirement that agencies of criminal justice provide a person's records of criminal history to the person's attorney under certain circumstances. (NRS 179A.100)

[~~Sections 6-10 of this bill revise the provisions governing the dissemination of information concerning the criminal history of prospective and current employees who work in positions involving children to: (1) expand the provisions to apply to persons who work in positions involving "vulnerable persons," which includes children, certain elderly persons and certain persons with disabilities; (2) expand the type of information disseminated by providing for the dissemination of records of criminal history in Nevada and records of criminal history of the United States or another state; (3) limit the dissemination of such records to government employers whose employees work with vulnerable persons; and (4) expand the dissemination of such records to licensing agencies whose applicants or licensees serve vulnerable persons. (NRS 179A.180-179A.240)~~**]**

Existing law requires the Director of the Department of Public Safety to establish a program within the Central Repository for Nevada Records of Criminal History to compile and analyze data concerning the recidivism of offenders who commit sexual offenses and to assess the effectiveness of certain programs for the treatment of juvenile sex offenders. Section 25 of this bill repeals those provisions of existing law. (NRS 179A.270, 179A.280, 179A.290) Sections 15.3, 15.5 and 15.7 of this bill require the Director of the Department of Health and Human Services to establish a substantially similar program within the Department to compile and analyze data concerning the recidivism of juvenile sex offenders and to assess the effectiveness of certain programs for the treatment of juvenile sex offenders.

Section 15.9 of this bill requires the Division of Child and Family Services of the Department of Health and Human Services to provide certain information collected by the Division concerning acts committed by a child adjudicated delinquent to the Director of the Department rather than to the Central Repository for use in the program established pursuant to sections 15.3, 15.5 and 15.7 of this bill. (NRS 62H.220)

Section 19 of this bill: (1) removes the provisions authorizing the Central Repository and the Investigation Division of the Department of Public Safety to send requests for certain identifying information regarding certain missing children to the parents or guardians of such children; (2) removes the duty of a law enforcement agency which receives such identifying information to transmit that information to the Central Repository and the Investigation Division; and (3) removes the duty of the Central Repository and the Investigation Division to compare any such identifying information received with the information on file concerning unidentified deceased children. (NRS 432.200)

Section 25 of this bill repeals the provisions which ~~[: (1) authorize notice of information relating to certain offenses to be disseminated to certain employers; (2) require the Director of the Department of Public Safety to establish a program within the Central Repository to compile and analyze data concerning the recidivism of offenders who commit sexual offenses and to assess the effectiveness of certain programs for the treatment of juvenile sex offenders; (3)]~~ provide for the creation of the Repository for Information Concerning Missing Persons within the Central Repository and the provision of a toll-free telephone service concerning information about missing persons ~~[; and (4) require a sheriff or a chief of police to forward registration information concerning a convicted person to the Central Repository.]~~ (NRS ~~[62H.220, 179A.190, 179A.270, 179A.280, 179A.290,]~~ 179A.400, 179A.410 ~~[, 179C.160)]~~

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

Section 1. ~~[NRS 179A.072 is hereby amended to read as follows:~~

~~179A.072 "Sex offender" has the meaning ascribed to it in NRS [179D.400.] *179D.095.]*~~ **(Deleted by amendment.)**

Sec. 1.3. **Chapter 179A of NRS is hereby amended by adding thereto a new section to read as follows:**

"Records of criminal history of the United States or another state" means records which originated in an agency of criminal justice of the Federal Government or an agency of criminal justice of another state.

Sec. 1.7. **NRS 179A.010 is hereby amended to read as follows:**

179A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 179A.020 to 179A.073, inclusive, ***and section 1.3 of this act*** have the meanings ascribed to them in those sections.

Sec. 2. NRS 179A.075 is hereby amended to read as follows:

179A.075 1. The Central Repository for Nevada Records of Criminal History is hereby created within the Records and Technology Division of the Department.

2. Each agency of criminal justice and any other agency dealing with crime or delinquency of children shall:

(a) Collect and maintain records, reports and compilations of statistical data required by the Department; and

(b) Submit the information collected to the Central Repository in the manner approved by the Director of the Department.

3. Each agency of criminal justice shall submit the information relating to records of criminal history that it creates or issues, and any information in its possession relating to the genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913, to the Division. The information must be submitted to the Division:

(a) Through an electronic network;

(b) On a medium of magnetic storage; or

(c) In the manner prescribed by the Director of the Department,

➥ within the period prescribed by the Director of the Department. If an agency has submitted a record regarding the arrest of a person who is later determined by the agency not to be the person who committed the particular crime, the agency shall, immediately upon making that determination, so notify the Division. The Division shall delete all references in the Central Repository relating to that particular arrest.

4. The Division shall, in the manner prescribed by the Director of the Department:

(a) Collect, maintain and arrange all information submitted to it relating to:

(1) Records of criminal history; and

(2) The genetic markers of a biological specimen of a person who is convicted of an offense listed in subsection 4 of NRS 176.0913.

(b) When practicable, use a record of the personal identifying information of a subject as the basis for any records maintained regarding him.

(c) Upon request, provide the information that is contained in the Central Repository to the State Disaster Identification Team of the Division of Emergency Management of the Department.

5. The Division may:

(a) Disseminate any information which is contained in the Central Repository to any other agency of criminal justice;

(b) Enter into cooperative agreements with ~~[federal and state]~~ repositories ***of the United States and other states*** to facilitate exchanges of information that may be disseminated pursuant to paragraph (a); and

(c) Request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person whose

record of fingerprints the Central Repository submits to the Federal Bureau of Investigation and:

(1) Who has applied to any agency of the State of Nevada or any political subdivision thereof for a license which it has the power to grant or deny;

(2) With whom any agency of the State of Nevada or any political subdivision thereof intends to enter into a relationship of employment or a contract for personal services;

(3) Who has applied to any agency of the State of Nevada or any political subdivision thereof to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission;

(4) For whom such information is required to be obtained pursuant to NRS 426.335 and 449.179; or

(5) About whom any agency of the State of Nevada or any political subdivision thereof ~~[has a legitimate need]~~ ***is authorized by law*** to have accurate personal information for the protection of the agency or the persons within its jurisdiction.

➥ To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to this subsection, the Central Repository must receive the person's complete set of fingerprints from the agency or political subdivision and submit the fingerprints to the Federal Bureau of Investigation for its report.

6. The Central Repository shall:

(a) Collect and maintain records, reports and compilations of statistical data submitted by any agency pursuant to subsection 2.

(b) Tabulate and analyze all records, reports and compilations of statistical data received pursuant to this section.

(c) Disseminate to federal agencies engaged in the collection of statistical data relating to crime information which is contained in the Central Repository.

(d) Investigate the criminal history of any person who:

(1) Has applied to the Superintendent of Public Instruction for a license;

(2) Has applied to a county school district, charter school or private school for employment; or

(3) Is employed by a county school district, charter school or private school,

➥ and notify the superintendent of each county school district, the governing body of each charter school and the Superintendent of Public Instruction, or the administrator of each private school, as appropriate, if the investigation of the Central Repository indicates that the person has been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude.

(e) Upon discovery, notify the superintendent of each county school district, the governing body of each charter school or the administrator of

each private school, as appropriate, by providing the superintendent, governing body or administrator with a list of all persons:

(1) Investigated pursuant to paragraph (d); or

(2) Employed by a county school district, charter school or private school whose fingerprints were sent previously to the Central Repository for investigation,

➥ who the Central Repository's records indicate have been convicted of a violation of NRS 200.508, 201.230, 453.3385, 453.339 or 453.3395, or convicted of a felony or any offense involving moral turpitude since the Central Repository's initial investigation. The superintendent of each county school district, the governing body of a charter school or the administrator of each private school, as applicable, shall determine whether further investigation or action by the district, charter school or private school, as applicable, is appropriate.

(f) Investigate the criminal history of each person who submits fingerprints or has his fingerprints submitted pursuant to NRS 426.335, 449.176 or 449.179.

(g) On or before July 1 of each year, prepare and present to the Governor a printed annual report containing the statistical data relating to crime received during the preceding calendar year. Additional reports may be presented to the Governor throughout the year regarding specific areas of crime if they are approved by the Director of the Department.

(h) ~~[(g)]~~ On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report containing statistical data about domestic violence in this State.

(i) ~~[(h)]~~ Identify and review the collection and processing of statistical data relating to criminal justice and the delinquency of children by any agency identified in subsection 2 ~~[,]~~ and make recommendations for any necessary changes in the manner of collecting and processing statistical data by any such agency.

7. The Central Repository may:

(a) In the manner prescribed by the Director of the Department, disseminate compilations of statistical data and publish statistical reports relating to crime or the delinquency of children.

(b) Charge a reasonable fee for any publication or special report it distributes relating to data collected pursuant to this section. The Central Repository may not collect such a fee from an agency of criminal justice, any other agency dealing with crime or the delinquency of children which is required to submit information pursuant to subsection 2 or the State Disaster Identification Team of the Division of Emergency Management of the Department. All money collected pursuant to this paragraph must be used to pay for the cost of operating the Central Repository.

(c) In the manner prescribed by the Director of the Department, use electronic means to receive and disseminate information contained in the Central Repository that it is authorized to disseminate pursuant to the provisions of this chapter.

8. As used in this section:

(a) "Personal identifying information" means any information designed, commonly used or capable of being used, alone or in conjunction with any other information, to identify a person, including, without limitation:

(1) The name, driver's license number, social security number, date of birth and photograph or computer-generated image of a person; and

(2) The fingerprints, voiceprint, retina image and iris image of a person.

(b) "Private school" has the meaning ascribed to it in NRS 394.103.

Sec. 3. NRS 179A.100 is hereby amended to read as follows:

179A.100 1. The following records of criminal history may be disseminated by an agency of criminal justice without any restriction pursuant to this chapter:

(a) Any which reflect records of conviction only; and

(b) Any which pertain to an incident for which a person is currently within the system of criminal justice, including parole or probation.

2. Without any restriction pursuant to this chapter, a record of criminal history or the absence of such a record may be:

(a) Disclosed among agencies which maintain a system for the mutual exchange of criminal records.

(b) Furnished by one agency to another to administer the system of criminal justice, including the furnishing of information by a police department to a district attorney.

(c) Reported to the Central Repository.

3. An agency of criminal justice shall disseminate to a prospective employer, upon request, records of criminal history concerning a prospective employee or volunteer ***which are the result of a name-based inquiry and*** which:

(a) Reflect convictions only; or

(b) Pertain to an incident for which the prospective employee or volunteer is currently within the system of criminal justice, including parole or probation.

4. In addition to any other information to which an employer is entitled or authorized to receive ~~[,]~~ ***from a name-based inquiry,*** the Central Repository shall disseminate to a prospective or current employer, or a person or entity designated to receive the information on behalf of such an employer, the information contained in a record of registration concerning an employee, prospective employee, volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, regardless of whether the employee, prospective employee, volunteer or prospective volunteer gives his written consent to the release of that information. The Central Repository shall disseminate such information in a manner that does

not reveal the name of an individual victim of an offense ~~[.]~~ ***or the information described in subsection 7 of NRS 179B.250.*** A request for information pursuant to this subsection must conform to the requirements of the Central Repository and must include:

(a) The name and address of the employer, and the name and signature of the person or entity requesting the ~~[~~notice~~]~~ ***information*** on behalf of the employer;

(b) The name and address of the employer's facility in which the employee, prospective employee, volunteer or prospective volunteer is employed or volunteers or is seeking to become employed or volunteer; and

(c) The name and other identifying information of the employee, prospective employee, volunteer or prospective volunteer.

5. In addition to any other information to which an ~~*[a licensing agency or an]*~~ employer is entitled or authorized to receive, the Central Repository shall disseminate to a ~~*[licensing agency or a]*~~ prospective or current employer, or a person or entity designated to receive the information ~~*[records]*~~ on behalf of such an ~~*[the licensing agency or]*~~ employer, the information described in subsection 4 of NRS 179A.190 ~~*[a record of criminal history and any records of criminal history of the United States or another state]*~~ concerning an ~~*[applicant, licensee,]*~~ employee, prospective employee, volunteer or prospective volunteer who gives his written consent to the release of that information ~~*[such records]*~~ if the ~~*[licensing agency or]*~~ employer submits a request in the manner set forth in NRS 179A.200 for obtaining a notice of information. ~~*[such records.]*~~ The Central Repository shall search for and disseminate such information ~~*[the records]*~~ in the manner set forth in NRS 179A.210 for the dissemination of a notice of information. ~~*[such records.]*~~

6. Except as otherwise provided in subsection 5, the provisions of NRS 179A.180 to 179A.240, inclusive, do not apply to ~~*[a licensing agency or]*~~ an employer who requests information ~~*[or records]*~~ and to whom ***such*** information is ~~*[or records are]*~~ disseminated pursuant to subsections 4 and 5 . ~~*[, unless the licensing agency or employer is authorized to request the information or records pursuant to NRS 179A.200.]*~~

7. ~~*[A licensing agency:*~~

~~*(a) May consider a record of criminal history or any records of criminal history of the United States or another state concerning an applicant or licensee for use in connection with licensure and for such other uses for which dissemination of such records to the licensing agency is authorized by law; and*~~

~~*(b) Is not liable in an action alleging discrimination based upon consideration of the information obtained pursuant to this section.*~~

~~*8. A prospective or current employer:*~~

~~*(a) May consider a record of criminal history or any records of criminal history of the United States or another state concerning an employee, prospective employee, volunteer or prospective volunteer for use in*~~

~~*connection with employing or retaining the employee, prospective employee, volunteer or prospective volunteer and for such other uses for which dissemination of such records to the prospective or current employer is authorized by law; and*~~

~~*(b) Is not liable in an action alleging discrimination based upon consideration of the information obtained pursuant to this section.*~~

~~*9.*~~] Records of criminal history must be disseminated by an agency of criminal justice, upon request, to the following persons or governmental entities:

(a) The person who is the subject of the record of criminal history for the purposes of NRS 179A.150.

(b) The person who is the subject of the record of criminal history ~~[or his attorney of record]~~ when the subject is a party in a judicial, administrative, licensing, disciplinary or other proceeding to which the information is relevant.

(c) The State Gaming Control Board.

(d) The State Board of Nursing.

(e) The Private Investigator's Licensing Board to investigate an applicant for a license.

(f) A public administrator to carry out his duties as prescribed in chapter 253 of NRS.

(g) A public guardian to investigate a ward or proposed ward or persons who may have knowledge of assets belonging to a ward or proposed ward.

(h) Any agency of criminal justice of the United States or of another state or the District of Columbia.

(i) Any public utility subject to the jurisdiction of the Public Utilities Commission of Nevada when the information is necessary to conduct a security investigation of an employee or prospective employee ~~[,]~~ or to protect the public health, safety or welfare.

(j) Persons and agencies authorized by statute, ordinance, executive order, court rule, court decision or court order as construed by appropriate state or local officers or agencies.

(k) Any person or governmental entity which has entered into a contract to provide services to an agency of criminal justice relating to the administration of criminal justice, if authorized by the contract, and if the contract also specifies that the information will be used only for stated purposes and that it will be otherwise confidential in accordance with state and federal law and regulation.

(l) Any reporter for the electronic or printed media in his professional capacity for communication to the public.

(m) Prospective employers if the person who is the subject of the information has given written consent to the release of that information by the agency which maintains it.

(n) For the express purpose of research, evaluative or statistical programs pursuant to an agreement with an agency of criminal justice.

(o) An agency which provides child welfare services, as defined in NRS 432B.030.

(p) The Division of Welfare and Supportive Services of the Department of Health and Human Services or its designated representative ~~[.]~~ ***, as needed to ensure the safety of investigators and caseworkers.***

(q) The Aging Services Division of the Department of Health and Human Services or its designated representative ~~[.]~~ ***, as needed to ensure the safety of investigators and caseworkers.***

(r) An agency of this or any other state or the Federal Government that is conducting activities pursuant to Part D of Subchapter IV of Chapter 7 of Title 42 of the Social Security Act, 42 U.S.C. §§ 651 et seq.

(s) The State Disaster Identification Team of the Division of Emergency Management of the Department.

(t) The Commissioner of Insurance.

(u) The Board of Medical Examiners.

(v) The State Board of Osteopathic Medicine.

8. ~~*[10.]*~~ Agencies of criminal justice in this State which receive information from sources outside this State concerning transactions involving criminal justice which occur outside Nevada shall treat the information as confidentially as is required by the provisions of this chapter.

~~*[11. As used in this section:*~~

~~*(a) "Applicant" means an applicant for a license or similar type of authorization issued by a licensing agency.*~~

~~*(b) "Licensee" means the holder of a license, certificate, registration, permit or similar type of authorization issued by a licensing agency.*~~

~~*(c) "Licensing agency" means a governmental agency or political subdivision of this State that issues a license, certificate, registration, permit or similar type of authorization to a person.]*~~

Sec. 4. ~~[NRS 179A.105 is hereby amended to read as follows:~~

~~179A.105 An employer who fails to request:~~

~~1. The information contained in a record of registration concerning a volunteer or prospective volunteer who is a sex offender or an offender convicted of a crime against a child, as authorized pursuant to subsection 4 of NRS 179A.100; or~~

~~2. [The information described in subsection 4 of NRS 179A.190]~~ ***A record of criminal history or any records of criminal history of the United States or another state*** ~~concerning a volunteer or prospective volunteer, as authorized pursuant to subsection 5 of NRS 179A.100,~~

~~→ is not liable to a child served by the employer for civil damages suffered by the child as a result of [an offense listed in subsection 4 of NRS 179A.190]~~ ***any crime*** ~~committed against the child by such a volunteer or prospective volunteer.]~~ **(Deleted by amendment.)**

Sec. 5. NRS 179A.110 is hereby amended to read as follows:

179A.110 ***A record of criminal history or any records of criminal history of the United States or another state obtained pursuant to this***

chapter must be used solely for the purpose for which the record was requested. No person who receives information relating to records of criminal history pursuant to this chapter or who receives information ~~*[a record of criminal history or any records of criminal history of the United States or another state,]*~~ pursuant to NRS 179A.180 to 179A.240, inclusive, may disseminate ~~[it]~~ ***the information*** ~~*[for such records]*~~ further without express authority of law or in accordance with a court order. This section does not prohibit the dissemination of material by an employee of the electronic or printed media in his professional capacity for communication to the public.

Sec. 6. ~~[NRS 179A.180 is hereby amended to read as follows:~~

~~179A.180 As used in NRS 179A.180 to 179A.240, inclusive, unless the context otherwise requires:~~

~~1. *"Applicant" means an applicant for a license, certificate, registration, permit or similar type of authorization issued by a licensing agency.*~~

~~*2.* "Employee" means a person who renders time and services to~~ [an] ~~*a government* employer~~ [,] ~~*for compensation* and whose regular course of duties places that person in a position to:~~

~~(a) Exercise supervisory or disciplinary control over~~ [children;] ~~*vulnerable persons;*~~

~~(b) Have direct access to or contact with~~ [children] ~~*vulnerable persons* served by the *government* employer; or~~

~~(c) Have access to information or records maintained by the *government* employer relating to identifiable~~ [children] ~~*vulnerable persons* served by the *government* employer,~~

~~*"*~~ [and includes a prospective employee,] ~~but does not include a *prospective employee,* volunteer or prospective volunteer.~~

[~~2. "Employer"~~]

~~*3. "Government employer"* means~~ [a person, or] ~~a governmental agency or political subdivision of this State that is not an agency of criminal justice, whose employees regularly render services to~~ [children,] ~~*vulnerable persons,* including , without limitation , care, treatment, transportation, instruction, companionship, entertainment and custody.~~

~~*4. "Licensee" means the holder of a license, certificate, registration, permit or similar type of authorization issued by a licensing agency.*~~

~~*5. "Licensing agency" means a governmental agency or political subdivision of this State which is not an agency of criminal justice and which issues a license, certificate, registration, permit or similar type of authorization to persons who:*~~

~~*(a) Regularly render services to vulnerable persons, including, without limitation, care, treatment, transportation, instruction, companionship, entertainment and custody; or*~~

~~*(b) Operate nongovernmental entities that regularly render such services to vulnerable persons.*~~

~~*6. "Vulnerable person" means:*~~

~~*(a) A natural person who is less than 18 years of age;*~~

~~*(b) An older person as defined in NRS 179A.450; or*~~

~~*(c) A person with a disability as defined in NRS 426.068.]*~~ **(Deleted by amendment.)**

Sec. 7. ~~[NRS 179A.200 is hereby amended to read as follows:~~

~~179A.200 1. In addition to any other information which [~~an~~] *a licensing agency or a prospective or current government* employer is authorized to request pursuant to this chapter, [~~an~~] *a licensing agency or a prospective or current government* employer may request from the Central Repository [~~notice of information relating to the offenses listed in subsection 4 of NRS 179A.190~~] *a record of criminal history or any records of criminal history of the United States or another state, or any combination thereof,* ~~concerning an~~ *applicant, licensee,* ~~employee [.]~~ *, prospective employee, volunteer or prospective volunteer.*

~~2. A request for [~~notice of information relating to the offenses listed in subsection 4 of NRS 179A.190~~] *a record of criminal history or any records of criminal history of the United States or another state, or any combination thereof, concerning an applicant, licensee, employee, prospective employee, volunteer or prospective volunteer* ~~from [~~an~~] *a licensing agency or government* employer must conform to the requirements of the Central Repository. The request must include:~~

~~(a) The name and address of the *licensing agency or government* employer, and the name and signature of the person requesting [~~the notice~~] *such records* on behalf of the *licensing agency or government* employer;~~

~~(b) The name and address of the [~~employer's~~] facility *in which the applicant will be or the licensee is licensed to operate or* in which the *applicant, licensee,* ~~employee~~ *, prospective employee, volunteer or prospective volunteer* is employed *or volunteers* or *is* seeking to become employed [~~;~~] *or to volunteer;*~~

~~(c) The name, a complete set of fingerprints and other identifying information of the *applicant, licensee,* employee [~~;~~] *, prospective employee, volunteer or prospective volunteer;*~~

~~(d) Signed consent by the *applicant, licensee,* employee *, prospective employee, volunteer or prospective volunteer* authorizing:~~

~~(1) The *licensing agency or government* employer to forward the fingerprints of the *applicant, licensee,* employee *, prospective employee, volunteer or prospective volunteer* to the Central Repository for submission to the Federal Bureau of Investigation for its report;~~

~~(2) A search [~~of information relating to the offenses listed in subsection 4 of NRS 179A.190 concerning the employee;~~] *for the records requested by the licensing agency or government employer pursuant to subsection 1;* and~~

~~(3) The release of [~~a notice concerning that information;~~] *any records requested by the licensing agency or government employer pursuant to subsection 1;*~~

~~(e) The mailing address of the ***applicant, licensee,*** employee ***, prospective employee, volunteer or prospective volunteer*** or a signed waiver of the right of the ***applicant, licensee,*** employee ***, prospective employee, volunteer or prospective volunteer*** to be sent a copy of **[**the information**]** ***such records*** disseminated to the ***licensing agency or government*** employer as a result of the search ; **[**of the records of criminal history;**]** and~~

~~(f) The signature of the ***applicant, licensee,*** employee ***, prospective employee, volunteer or prospective volunteer*** indicating that he has been notified of:~~

~~(1) **[**The types of information for which notice is subject to dissemination pursuant to NRS 179A.210, or a description of the information;~~

~~(2)**]** The **[**employer's**]** right ***of the licensing agency or government employer*** to require a check of **[**the**]** ***such*** records **[**of criminal history**]** as a condition of ***licensure,*** employment **[**;**]** ***or service as a volunteer;*** and~~

~~**[**(3) The employee's**]**~~

~~***(2) The*** right **[**,**]** ***of the applicant, licensee, employee, prospective employee, volunteer or prospective volunteer*** pursuant to NRS 179A.150 **[**,**]** to challenge the accuracy or sufficiency of any **[**information**]** ***such records*** disseminated to the ***licensing agency or government*** employer.**]** **(Deleted by amendment.)***

Sec. 8. NRS 179A.210 is hereby amended to read as follows:

179A.210 1. Upon receipt of a request from an ~~*[a licensing agency or a prospective or current government]*~~ employer for notice of information relating to the offenses listed in subsection 4 of NRS 179A.190, ~~*[a record of criminal history or any records of criminal history of the United States or another state, or any combination thereof,]*~~ the Central Repository shall undertake a search for the information, ~~*[such records,]*~~ unless the request does not conform to the requirements of the Repository. The search must be based on the fingerprints of the ~~*[applicant, licensee,]*~~ employee, ~~*[prospective employee, volunteer or prospective volunteer]*~~ or on a number furnished to the ~~*[applicant, licensee,]*~~ employee ~~*[, prospective employee, volunteer or prospective volunteer]*~~ for identification pursuant to a previous search, as provided by the ~~*[licensing agency or government]*~~ employer, and must include:

(a) Identifying any information relating to the offenses listed in subsection 4 of NRS 179A.190 ~~*[such records]*~~ concerning the ~~*[applicant, licensee,]*~~ employee ~~*[, prospective employee, volunteer or prospective volunteer]*~~ in the Central Repository; ~~*[and]*~~

(b) Requesting information relating to the offenses listed in subsection 4 of NRS 179A.190 ~~*[such records]*~~ concerning the ~~*[applicant, licensee,]*~~ employee ~~*[, prospective employee, volunteer or prospective volunteer]*~~ from **[**federal repositories and**]** repositories of ***the United States or*** other states, if authorized by federal law or an agreement entered into pursuant to NRS 179A.075 ~~*[.]*~~ ;

(c) If the information pertains to an arrest for which no disposition has been reported, contacting appropriate officers in the local jurisdiction where the arrest or prosecution occurred to verify and update the information; and

(d) Determining whether the information relating to the offenses listed in subsection 4 of NRS 179A.190 is the type of information for which notice is subject to dissemination pursuant to this section.

2. Notice of information relating to the offenses listed in subsection 4 of NRS 179A.190 may be disseminated to an employer who has requested it only if a check of the pertinent records indicates:

(a) A conviction for any such offense, or a conviction based on an arrest or on an initial charge for any such offense;

(b) An arrest or an initial charge for a sexual offense that is pending at the time of the request; or

(c) Two or more incidents resulting in arrest or initial charge for a sexual offense that have not resulted in a conviction.

3. If a search of

~~[2. If the request made pursuant to subsection 1 is a request for a record of criminal history and any records of criminal history of the United States or another state, in addition to searching,]~~ the records of the Central Repository ~~[,]~~ reveals no information for which notice is subject to release, the Central Repository shall submit the fingerprints of the ~~[applicant, licensee, employee, prospective employee, volunteer or prospective volunteer]~~ to the Federal Bureau of Investigation for a search of its records of criminal history. The Central Repository shall review all information received from the Federal Bureau of Investigation. Notice of any information received from the Federal Bureau of Investigation may be disseminated only if the information is of a kind for which notice is subject to release pursuant to this section.

4. ~~[3.]~~ Within 30 days after receipt of a request by an ~~[a licensing agency or a prospective or current government]~~ employer for notice of information relating to the offenses listed in subsection 4 of NRS 179A.190, ~~[a record of criminal history or any records of criminal history of the United States or another state, or any combination thereof,]~~ the Central Repository shall send a written report of the results of the search to the ~~[licensing agency or government]~~ employer and to the employee, except that if the employee has waived his right to receive the results of the search, the report must be sent only to the employer. If the search revealed:

(a) No information for which notice is subject to release, the report must include a statement to that effect; or

(b) Information about the employee for which notice is subject to release, the report must include a notice of the type of information, limited to the descriptions set forth in subsection 2, revealed by the search. The notice must not include any further facts or details concerning the information. A statement of the purpose for which the notice is being disseminated, and the

procedures by which the employee might challenge the accuracy and sufficiency of the information, must also be included with the report.

5. ~~[for use in connection with the licensure of an applicant or licensee or for use in connection with hiring, retaining, suspending or discharging an employee, prospective employee, volunteer or prospective volunteer. The licensing agency or government employer shall not make such a determination based on information contained in such records until:~~

~~(a) The licensing agency or government employer has afforded the applicant, licensee, employee, prospective employee, volunteer or prospective volunteer a reasonable amount of time, as determined jointly by the licensing agency and the applicant or licensee or the government employer and the employee, prospective employee, volunteer or prospective volunteer, to correct or complete such records; and~~

~~(b) The applicant, licensee, employee, prospective employee, volunteer or prospective volunteer has corrected or completed the record or has failed or declined to do so.~~

~~4.]~~ Upon receipt of corrected information relating to the offenses listed in subsection 4 of NRS 179A.190 for which notice was ~~[a record of criminal history or any records of criminal history of the United States or another state which were]~~ disseminated under this section, the Central Repository shall send written notice of the correction to:

(a) The ~~[applicant, licensee,]~~ employee ~~[, prospective employee, volunteer or prospective volunteer]~~ who was the subject of the search ~~[;]~~ , unless the employee has waived his right to receive such a notice;

(b) All ~~[licensing agencies and government]~~ employers to whom notice of the results of the search were disseminated within 3 months before the correction; and

(c) Upon request of the ~~[applicant, licensee,]~~ employee, ~~[prospective employee, volunteer or prospective volunteer,]~~ any other ~~[licensing agencies or government]~~ employers who previously received the information.

6. ~~[5.]~~ Upon receipt of new information relating to the offenses listed in subsection 4 of NRS 179A.190 ~~[a record of criminal history or any records of criminal history of the United States or another state]~~ concerning an ~~[applicant, licensee,]~~ employee ~~[, prospective employee, volunteer or prospective volunteer]~~ who was the subject of a search within the previous 3 months, for which notice is ~~[such records are]~~ subject to dissemination under this section, the Central Repository shall send written notice of the information to:

(a) The ~~[applicant, licensee,]~~ employee ~~[, prospective employee, volunteer or prospective volunteer]~~ who was the subject of the search ~~[;]~~ , unless the employee has waived his right to receive such a notice;

(b) All ~~[licensing agencies and government]~~ employers to whom a report of the results of the search were disseminated within 3 months before the correction; and

(c) Upon request of the ~~*[applicant, licensee,]*~~ employee, ~~*[prospective employee, volunteer or prospective volunteer,]*~~ any other ~~*[licensing agencies or government]*~~ employers who previously received a report of the results of the search.

Sec. 9. ~~[~~NRS 179A.230 is hereby amended to read as follows:

~~179A.230 1. A person who is the subject of a request for [~~notice of information~~] *a record of criminal history or any records of criminal history of the United States or another state, or any combination thereof,* pursuant to NRS 179A.180 to 179A.240, inclusive, may recover his actual damages in a civil action against:~~

~~(a) The Central Repository for an intentional or grossly negligent:~~

~~(1) Dissemination of [~~information relating to the offenses listed in subsection 4 of NRS 179A.190~~] *any such records* not authorized for dissemination; or~~

~~(2) Release of [~~information relating to the offenses listed in subsection 4 of NRS 179A.190~~] *any such records* to a person not authorized to receive [~~the information;~~] *such records;*~~

~~(b) The Central Repository for an intentional or grossly negligent failure to correct any [~~notice of information relating to the offenses listed in subsection 4 of NRS 179A.190~~] *such records* which [~~was~~] *were* disseminated pursuant to NRS 179A.180 to 179A.240, inclusive; or~~

~~(c) [~~An~~] *A licensing agency or a government* employer, *a* representative of [~~an~~] *a licensing agency or government* employer *, a licensee* or *an* employee for an intentional or grossly negligent violation of NRS 179A.110. Punitive damages may be awarded against [~~an~~] *a licensing agency or a government* employer, *a* representative of [~~an~~] *a licensing agency or government* employer *, a licensee* or *an* employee whose violation of NRS 179A.110 is malicious.~~

~~2. [~~An~~] *A government* employer is liable to a [~~child~~] *vulnerable person* served by the *government* employer for damages suffered by the [~~child~~] *vulnerable person* as a result of [~~an offense listed in subsection 4 of NRS 179A.190~~] *a crime* committed against the [~~child~~] *vulnerable person* by an employee if, at the time the *government* employer hired the employee, the employee was the subject of [~~information relating to the offenses for which notice was available for dissemination to the employer~~] *a record of criminal history or any record of criminal history of the United States or another state, relating to a crime committed against a vulnerable person* and the *government* employer:~~

~~(a) Failed, without good cause, to request [~~notice of the information~~] *such records* pursuant to NRS 179A.180 to 179A.240, inclusive; or~~

~~(b) Was unable to obtain [~~the information~~] *such records* because the employee refused to consent to the search and release of [~~the information,~~] *such records* and the *government* employer hired or retained the employee despite this refusal.~~

~~The amount of damages for which [an] *a government* employer is liable pursuant to this subsection must be reduced by the amount of damages recovered by the [child] *vulnerable person* in an action against the employee for damages sustained as a result of [an offense listed in subsection 4 of NRS 179A.190.] *a crime committed against the vulnerable person.*~~

~~3. An action pursuant to this section must be brought within 3 years after:~~

~~(a) The occurrence upon which the action is based; or~~

~~(b) The date upon which the party bringing the action became aware or reasonably should have become aware of the occurrence, whichever was earlier, if he was not aware of the occurrence at the time of the occurrence.~~

~~4. This section does not limit or affect any other rights, claims or causes of action arising by statute or common law.]~~ **(Deleted by amendment.)**

Sec. 10. ~~[NRS 179A.240 is hereby amended to read as follows:~~

~~179A.240 A person who knowingly and willfully:~~

~~1. Uses NRS 179A.180 to 179A.240, inclusive, to obtain or seek to obtain information relating to [the offenses listed in subsection 4 of NRS 179A.190] *a record of criminal history or any record of criminal history of the United States or another state* under false pretenses;~~

~~2. Disseminates or attempts to disseminate information relating to [the offenses listed in subsection 4 of NRS 179A.190] *a record of criminal history or any record of criminal history of the United States or another state* that he knows was not received in accordance with the provisions of this chapter; or~~

~~3. Disseminates or attempts to disseminate information relating to [the offenses listed in subsection 4 of NRS 179A.190] *a record of criminal history or any record of criminal history of the United States or another state* that he knows is false, inaccurate or incomplete,~~

~~is guilty of a misdemeanor.]~~ **(Deleted by amendment.)**

Sec. 11. ~~[NRS 179A.310 is hereby amended to read as follows:~~

~~179A.310 1. The Revolving Account to Investigate the Background of Volunteers Who Work With Children is hereby created in the State General Fund.~~

~~2. The Director of the Department shall administer the Account to Investigate the Background of Volunteers Who Work With Children. The money in the Account must be expended only to pay the costs of the Central Repository to process requests from nonprofit agencies to determine whether a volunteer of a nonprofit agency who works directly with children or a prospective volunteer of the nonprofit agency who will work directly with children has committed an offense [listed in subsection 4 of NRS 179A.190.] *contained in a record of criminal history or any records of criminal history of the United States or another state.* The existence of the Account to Investigate the Background of Volunteers Who Work With Children does not create a right in any person to receive money from the Account.~~

~~3. The Director of the Department may apply for and accept any gift, donation, bequest, grant or other source of money. Any money so received must be deposited in the Account to Investigate the Background of Volunteers Who Work With Children.~~

~~4. The interest and income earned on money in the Account from any gift, donation or bequest, after deducting any applicable charges, must be credited to the Account. Money from any gift, donation or bequest that remains in the Account at the end of the fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.~~

~~5. The Director of the Department shall adopt regulations to carry out the provisions of this section. The regulations must include, without limitation:~~

~~(a) The procedure by which a person may apply for a grant of money from the Account to Investigate the Background of Volunteers Who Work With Children;~~

~~(b) The criteria that the Department will consider in determining whether to award such a grant of money from the Account; and~~

~~(c) Procedures to distribute the money in the Account in a fair and equitable manner.~~

~~6. The following facts must not be considered as evidence of negligence or causation in any civil action brought against a nonprofit agency:~~

~~(a) The fact that the nonprofit agency did not apply for a grant of money from the Account.~~

~~(b) The fact that the nonprofit agency did not request that the Central Repository, through the use of the Account, determine whether a volunteer or prospective volunteer of the nonprofit agency has committed an offense~~ **[**~~listed in subsection 4 of NRS 179A.190.~~**]** ~~***contained in a record of criminal history or any records of criminal history of the United States or another state.***~~ **(Deleted by amendment.)**

Sec. 12. ~~**[**NRS 179B.110 is hereby amended to read as follows:~~

~~179B.110 "Sex offender" has the meaning ascribed to it in NRS~~ **[**~~179D.400.~~**]** ~~***179D.095.***~~ **(Deleted by amendment.)**

Sec. 13. ~~**[**NRS 179B.250 is hereby amended to read as follows:~~

~~179B.250 1. The Department shall establish and maintain within the Central Repository a community notification website to provide the public with access to certain information contained in the statewide registry in accordance with the procedures set forth in this section.~~

~~2. The community notification website must:~~

~~(a) Be maintained in a manner that will allow the public to obtain relevant information for each offender by a single query for any given zip code or geographical radius set by the user;~~

~~(b) Include in its design all the search field capabilities needed for full participation in the Dru Sjodin National Sex Offender Public Website maintained by the Attorney General of the United States pursuant to 42 U.S.C. § 16920;~~

~~(c) Include, to the extent practicable, links to sex offender safety and education resources;~~

~~(d) Include instructions on how to seek correction of information that a person contends is erroneous; and~~

~~(e) Include a warning that the information on the website should not be used to unlawfully injure, harass or commit a crime against any person named in the registry or residing or working at any reported address and a notice that any such action could result in civil or criminal penalties.~~

~~3. For each inquiry to the community notification website, the requester may provide:~~

~~(a) The name of the subject of the search;~~

~~(b) Any alias of the subject of the search;~~

~~(c) The zip code of the residence, place of work or school of the subject of the search; or~~

~~(d) Any other information concerning the identity or location of the subject of the search that is deemed sufficient in the discretion of the Department.~~

~~4. For each inquiry to the community notification website made by the requester, the Central Repository shall:~~

~~(a) Explain the levels of registration and community notification that are assigned to sex offenders pursuant to NRS 179D.010 to 179D.550, inclusive; and~~

~~(b) Explain that the Central Repository is prohibited by law from disclosing certain information concerning certain offenders, even if those offenders are listed in the statewide registry.~~

~~5. If an offender listed in the statewide registry matches the information provided by the requester concerning the identity or location of the subject of the search, the Central Repository shall disclose to the requester information in the statewide registry concerning the offender as provided pursuant to subsection 6.~~

~~6. After each inquiry to the community notification website made by the requester, the Central Repository shall inform the requester that:~~

~~(a) No offender listed in the statewide registry matches the information provided by the requester concerning the identity or location of the subject of the search;~~

~~(b) The search of the statewide registry has not produced information that is available to the public through the statewide registry; or~~

~~(c) An offender listed in the statewide registry matches the information provided by the requester concerning the identity or location of the subject of the search. Except as otherwise provided in subsection 7, if a search of the statewide registry results in a match pursuant to this paragraph, the Central Repository shall provide the requester with the following information:~~

~~(1) The name of the offender and all aliases that the offender has used or under which the offender has been known.~~

~~(2) A complete physical description of the offender.~~

~~(3) A current photograph of the offender.~~

~~(4) The year of birth of the offender.~~

~~(5) The complete address of any residence at which the offender resides or will reside.~~

~~(6) The address of any location where the offender is or will be:~~

~~(I) A student, as defined in NRS 179D.110; or~~

~~(II) A worker, as defined in NRS 179D.120.~~

~~(7) The license plate number and a description of any motor vehicle owned or operated by the offender.~~

~~(8) The following information for each offense for which the offender has been convicted:~~

~~(I) The offense that was committed, including a citation to and the text of the specific statute that the offender violated.~~

~~(II) The court in which the offender was convicted.~~

~~(III) The name under which the offender was convicted.~~

~~(IV) The name and location of each penal institution, school, hospital, mental facility or other institution to which the offender was committed for the offense.~~

~~(V) The city, township or county where the offense was committed.~~

~~(9) The tier level of registration and community notification assigned to the offender pursuant to NRS 179D.010 to 179D.550, inclusive.~~

~~(10) Any other information required by federal law.~~

~~7. If a search of the statewide registry results in a match pursuant to paragraph (c) of subsection 6, the Central Repository shall not provide the requester with:~~

~~(a) The identity of any victim of a sexual offense or crime against a child;~~

~~(b) Any information relating to a Tier I offender unless he has been convicted of a sexual offense against a child or a crime against a child;~~

~~(c) The social security number of the offender;~~

~~(d) The name of any location where the offender is or will be:~~

~~(1) A student, as defined in NRS 179D.110; or~~

~~(2) A worker, as defined in NRS 179D.120;~~

~~(e) Any reference to arrests of the offender that did not result in conviction;~~

~~(f) Any other information that is included in the record of registration for the offender other than the information required pursuant to paragraph (c) of subsection 6; or~~

~~(g) Any other information exempted from disclosure by the Attorney General of the United States pursuant to federal law.~~

~~8. For each inquiry to the community notification website, the Central Repository shall maintain a log of the information provided by the requester to the Central Repository and the information provided by the Central Repository to the requester.~~

~~9. A person may not use information obtained through the community notification website as a substitute for [~~information relating to the offenses

~~listed in subsection 4 of NRS 179A.190~~**]** ***~~a record of criminal history or any records of criminal history of the United States or another state~~*** ~~that must be provided by the Central Repository pursuant to NRS 179A.180 to 179A.240, inclusive, or another provision of law.~~

~~10. The provisions of this section do not prevent law enforcement officers, the Central Repository and its officers and employees, or any other person from:~~

~~(a) Accessing information in the statewide registry pursuant to NRS 179B.200;~~

~~(b) Carrying out any duty pursuant to chapter 179D of NRS; or~~

~~(c) Carrying out any duty pursuant to another provision of law.~~

~~11. As used in this section~~ **[**~~,~~**]** ~~:~~

~~***(a) "Record of criminal history" has the meaning ascribed to it in NRS 179A.070.***~~

~~***(b)*** "Tier I offender" has the meaning ascribed to it in NRS 179D.113.~~**]** **(Deleted by amendment.)**

Sec. 14. **[**~~NRS 62H.030 is hereby amended to read as follows:~~

~~62H.030 1. The juvenile court shall make and keep records of all cases brought before the juvenile court.~~

~~2. Except as otherwise provided in this section and NRS 217.110, records of any case brought before the juvenile court may be opened to inspection only by court order to persons who have a legitimate interest in the records.~~

~~3. The following records and information may be opened to inspection without a court order:~~

~~(a) Records of traffic violations which are being forwarded to the Department of Motor Vehicles;~~

~~(b) Records which have not been sealed and which are required by the Division of Parole and Probation for preparation of presentence investigations and reports pursuant to NRS 176.135 or general investigations and reports pursuant to NRS 176.151;~~

~~(c) Records which have not been sealed and which are to be used, pursuant to chapter 179D of NRS, by:~~

~~(1) The Central Repository;~~

~~(2) The Division of Parole and Probation; or~~

~~(3) A person who is conducting an assessment of the risk of recidivism of an adult or juvenile sex offender; ***and***~~

~~(d) Information maintained in the standardized system established pursuant to NRS 62H.200.~~ **[**~~; and~~

~~(e) Information that must be collected by the Division of Child and Family Services pursuant to NRS 62H.220.~~**]**

~~4. The clerk of the court shall prepare and cause to be printed forms for social and legal records and other papers as may be required.~~**]** **(Deleted by amendment.)**

Sec. 15. **[**~~NRS 62H.110 is hereby amended to read as follows:~~

~~62H.110 The provisions of NRS 62H.100 to 62H.170, inclusive, do not apply to:~~

~~1. Information maintained in the standardized system established pursuant to NRS 62H.200;~~

~~2. Information that must be collected by the Division of Child and Family Services pursuant to NRS 62H.220;~~

~~3.] Records that are subject to the provisions of NRS 62F.260; or~~

~~4.] 3. Records relating to a traffic offense that would have been a misdemeanor if committed by an adult.~~ **(Deleted by amendment.)**

Sec. 15.1. **Chapter 62H of NRS is hereby amended by adding thereto the provisions set forth as sections 15.3, 15.5 and 15.7 of this act.**

Sec. 15.3. ***The Legislature hereby finds and declares that:***

1. A significant number of offenders in Nevada have been convicted of sexual offenses. Many of these offenders have been convicted of sexual offenses on more than one occasion, and many of these offenders began committing sexual offenses as juveniles.

2. There is a great need for a continuing statistical analysis regarding the recidivism of juvenile sex offenders so that the most appropriate punishment and treatment may be identified to prevent these juvenile sex offenders, as juveniles, from committing further acts that, if committed by adults, would be sexual offenses or, later as adults, from committing sexual offenses.

Sec. 15.5. ***As used in this section and sections 15.3 and 15.7 of this act:***

1. "Juvenile sex offender" means a child adjudicated delinquent for an act that, if committed by an adult, would be a sexual offense.

2. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(e) Incest pursuant to NRS 201.180;

(f) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;

(g) Open or gross lewdness pursuant to NRS 201.210;

(h) Indecent or obscene exposure pursuant to NRS 201.220;

(i) Lewdness with a child pursuant to NRS 201.230;

(j) Sexual penetration of a dead human body pursuant to NRS 201.450;

(k) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;

(l) An attempt to commit an offense listed in paragraphs (a) to (k), inclusive;

(m) An offense that is determined to be sexually motivated pursuant to NRS 175.547; or

(n) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this subsection.

Sec. 15.7. ***1. The Director of the Department of Health and Human Services shall establish within the Department a program to compile and analyze data concerning juvenile sex offenders. The program must be designed to:***

(a) Provide statistical data relating to the recidivism of juvenile sex offenders; and

(b) Use the data provided by the Division of Child and Family Services of the Department of Health and Human Services pursuant to NRS 62H.220 to assess the effectiveness of programs for the treatment of juvenile sex offenders.

2. The Director of the Department of Health and Human Services shall report the statistical data and findings from the program to:

(a) The Legislature at the beginning of each regular session.

(b) The Advisory Commission on the Administration of Justice on or before January 31 of each even-numbered year.

3. The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of a juvenile sex offender or the identity of an individual victim of a crime.

Sec. 15.9. **NRS 62H.220 is hereby amended to read as follows:**

62H.220 1. For each child adjudicated delinquent for an unlawful act that would have been a sexual offense if committed by an adult, the Division of Child and Family Services shall collect from the juvenile courts, local juvenile probation departments and the staff of the youth correctional services, as directed by the Department of Health and Human Services:

(a) The information listed in NRS 62H.210;

(b) The name of the child; and

(c) All information concerning programs of treatment in which the child participated that:

(1) Were directly related to the delinquent act committed by the child; or

(2) Were designed or utilized to prevent the commission of another such act by the child in the future.

2. The Division of Child and Family Services shall provide the information collected pursuant to subsection 1 to the ~~[Central Repository]~~ ***Director of the Department of Health and Human Services*** for use in the program established pursuant to ~~[NRS 179A.270, 179A.280 and 179A.290.]~~ ***sections 15.3, 15.5 and 15.7 of this act.***

3. Except as otherwise provided in NRS 239.0115, all information containing the name of the child and all information relating to programs of treatment in which the child participated is confidential and must not be used

for a purpose other than that provided for in this section and ~~[NRS 179A.290.]~~ ***section 15.7 of this act.***

4. As used in this section, "sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(e) Incest pursuant to NRS 201.180;

(f) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;

(g) Open or gross lewdness pursuant to NRS 201.210;

(h) Indecent or obscene exposure pursuant to NRS 201.220;

(i) Lewdness with a child pursuant to NRS 201.230;

(j) Sexual penetration of a dead human body pursuant to NRS 201.450;

(k) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony;

(l) Annoyance or molestation of a minor pursuant to NRS 207.260;

(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive;

(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547; or

(o) An offense committed in another jurisdiction that, if committed in this State, would have been an offense listed in this subsection.

Sec. 16. NRS 239B.010 is hereby amended to read as follows:

239B.010 1. Any agency of the State or any political subdivision may request of and receive from the Federal Bureau of Investigation information on the background and personal history of any person:

(a) Who has applied to it for a license as required by any statute or local ordinance which it has the power to grant or deny;

(b) With whom it intends to enter into a relationship of employment or a contract for personal services;

(c) Who has applied to it to attend an academy for training peace officers approved by the Peace Officers' Standards and Training Commission; or

(d) About whom it ~~[has a legitimate need]~~ ***is authorized by law*** to have accurate personal information for the protection of the agency or the people within its jurisdiction.

2. Except as otherwise provided in subsection 3:

(a) To request and receive information from the Federal Bureau of Investigation concerning a person pursuant to subsection 1, the agency or political subdivision must:

(1) Require the person to submit a complete set of his fingerprints; and

(2) Forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(b) Only the Central Repository may:

(1) Receive fingerprints from an agency of the State or any political subdivision for submission to the Federal Bureau of Investigation pursuant to this section;

(2) Submit those fingerprints to the Federal Bureau of Investigation; and

(3) Receive a report from the Federal Bureau of Investigation based on the submission of those fingerprints.

3. If an agency or political subdivision that wishes to request and receive information from the Federal Bureau of Investigation concerning a person pursuant to subsection 1 is required by federal law to comply with specific procedures to request and receive such information from the Federal Bureau of Investigation:

(a) The provisions of subsection 2 do not apply to the agency or political subdivision; and

(b) The agency or political subdivision must comply with the specific procedures required by federal law.

Sec. 17. ~~[NRS 426.335 is hereby amended to read as follows:~~

~~426.335 1. Except as otherwise provided in subsection 2, within 10 days after hiring an employee or entering into a contract with an independent contractor, the holder of a certificate to operate an intermediary service organization shall:~~

~~(a) Obtain a written statement from the employee or independent contractor stating whether he has been convicted of any crime listed in subsection 1 of NRS 426.341;~~

~~(b) Obtain an oral and written confirmation of the information contained in the written statement obtained pursuant to paragraph (a);~~

~~(c) Obtain from the employee or independent contractor two sets of fingerprints and a written authorization to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(d) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (c).~~

~~2. The holder of a certificate to operate an intermediary service organization is not required to obtain the information described in subsection 1 from an employee or independent contractor who provides proof that an investigation of his criminal history has been conducted [by the Central Repository for Nevada Records of Criminal History] within the immediately preceding 6 months and the investigation did not indicate that the employee or independent contractor had been convicted of any crime set forth in subsection 1 of NRS 426.341.~~

~~3. The holder of a certificate to operate an intermediary service organization shall ensure that the criminal history of each employee or independent contractor who works at or for the intermediary service~~

~~organization is investigated at least once every 5 years. The holder of the certificate shall:~~

~~(a) If the intermediary service organization does not have the fingerprints of the employee or independent contractor on file, obtain two sets of fingerprints from the employee or independent contractor;~~

~~(b) Obtain written authorization from the employee or independent contractor to forward the fingerprints on file or obtained pursuant to paragraph (a) to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(c) Submit the fingerprints to the Central Repository for Nevada Records of Criminal History.~~

~~4. Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall~~ ~~***search the record of criminal history of the employee or independent contractor and forward the record of criminal history to the Office together with the report obtained from the Federal Bureau of Investigation pursuant to subsection 3. The Office shall review the record and report and***~~ ~~determine whether the employee or independent contractor has been convicted of a crime listed in subsection 1 of NRS 426.341 and immediately inform~~ **[**~~the Office and~~**]** ~~the holder of a certificate to operate the intermediary service organization for which the person works whether the employee or independent contractor has been convicted of such a crime.~~

~~5. The Central Repository for Nevada Records of Criminal History may impose a fee upon an intermediary service organization that submits fingerprints pursuant to this section for the reasonable cost of~~ **[**~~the investigation.~~**]** ~~***taking any action described in this section.***~~ ~~The intermediary service organization may recover from the employee or independent contractor not more than one-half of the fee imposed by the Central Repository. If the intermediary service organization requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments.~~

~~***6. As used in this section, "record of criminal history" has the meaning ascribed to it in NRS 179A.070.]***~~ **(Deleted by amendment.)**

Sec. 18. ~~**[**NRS 426.339 is hereby amended to read as follows:~~

~~426.339 1. Upon receiving information~~ **[**~~from~~**]** ~~***provided to the Office by***~~ ~~the Central Repository for Nevada Records of Criminal History pursuant to NRS 426.335, or evidence from any other source, that an employee or independent contractor of an intermediary service organization has been convicted of a crime listed in subsection 1 of NRS 426.341, the holder of a certificate to operate the intermediary service organization shall terminate the employment or contract of that person after allowing him time to correct the information pursuant to subsection 2.~~

~~2. If an employee or independent contractor believes that the information provided by the Central Repository is incorrect, he may immediately inform the intermediary service organization. An intermediary service organization that is so informed shall give the employee or independent contractor a reasonable amount of time of not less than 30 days to correct the information [received from] *provided by* the Central Repository before terminating the employment or contract of the person pursuant to subsection 1.~~

~~3. An intermediary service organization that has complied with NRS 426.335 may not be held civilly or criminally liable based solely upon the ground that the intermediary service organization allowed an employee or independent contractor to work:~~

~~(a) Before it received the information concerning the employee or independent contractor [from] *provided by* the Central Repository;~~

~~(b) During any period required pursuant to subsection 2 to allow the employee or independent contractor to correct that information;~~

~~(c) Based on the information [received from] *provided by* the Central Repository, if the information [received from] *provided by* the Central Repository was inaccurate; or~~

~~(d) Any combination thereof.~~

~~*An intermediary service organization may be held liable for any other conduct determined to be negligent or unlawful.]~~ **(Deleted by amendment.)**

Sec. 19. NRS 432.200 is hereby amended to read as follows:

432.200 1. A law enforcement agency shall accept every report of a missing child which is submitted to the agency, including, but not limited to, a report made by telephone. Upon receipt of such a report, the agency shall immediately conduct a preliminary investigation and classify the cause of the disappearance of the child as "runaway," "abducted by his parent," "abducted by a stranger" or "cause of disappearance unknown," and shall:

(a) Transmit all available information about the child to the Clearinghouse ~~[and to the Central Repository for Nevada Records of Criminal History]~~ within 36 hours after the report is received;

(b) Immediately notify such persons and make such inquiries concerning the missing child as the agency deems necessary;

(c) Fully comply with the requirements of the National Child Search Assistance Act of 1990, Title XXXVII of Public Law 101-647, 104 Stat. 4966; and

(d) Enter into the National Crime Information Center's Missing Person File **,** ~~[and the Repository for Information Concerning Missing Persons within the Central Repository for Nevada Records of Criminal History,]~~ as miscellaneous information, any person reasonably believed to have unlawfully abducted or detained the missing child, or aided or abetted the unlawful abduction or detention.

2. A law enforcement agency which has jurisdiction over the investigation of an abducted child and which has obtained a warrant for the arrest of a person suspected in the child's disappearance or concealment shall

immediately notify the National Crime Information Center for the entry into the Center's Wanted Person File of identifying and descriptive information concerning:

(a) The suspect; and

(b) As miscellaneous information, the missing child.

➥ The agency shall cross-reference information entered pursuant to this section with the National Crime Information Center's Missing Person File **.** ~~[and with the Repository for Information Concerning Missing Persons within the Central Repository for Nevada Records of Criminal History.]~~

3. If a missing child is less than 16 years of age or has not been located within 30 days after a report is filed, the law enforcement agency that received the initial report shall ***:*** ~~[, and the Division or the Central Repository for Nevada Records of Criminal History may:]~~

(a) Send to the child's parent or guardian a request for certain identifying information regarding the child that the National Crime Information Center recommends be provided; and

(b) Ask the child's parent or guardian to provide such identifying information regarding the child.

➥ ~~[If a law enforcement agency receives the identifying information, it shall transmit all information so released to it to the Division and to the Central Repository. The Division and the Central Repository shall, upon receipt of the identifying information about the missing child, compare the information with the information that is on file concerning unidentified deceased children.]~~ This subsection does not preclude the voluntary release of identifying information about the missing child by his parent or guardian at any time.

4. The parent or guardian of a child reported as missing shall promptly notify the appropriate law enforcement agency if the child is found or returned. The law enforcement agency shall then transmit that fact to the National Crime Information Center ~~[, the Central Repository for Nevada Records of Criminal History]~~ and the Clearinghouse.

5. Nothing in this section requires a law enforcement agency to activate the Statewide Alert System for the Safe Return of Abducted Children created by NRS 432.340.

~~[6. As used in this section, "Division" means the Investigation Division of the Department of Public Safety.]~~

Sec. 20. ~~[Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*"Record of criminal history" has the meaning ascribed to it in NRS 179A.070.]*~~ **(Deleted by amendment.)**

Sec. 21. ~~[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 20 of this act* have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 22. ~~[NRS 449.176 is hereby amended to read as follows:~~

~~449.176 1. Each applicant for a license to operate a facility for intermediate care, facility for skilled nursing or residential facility for groups shall submit to the Central Repository for Nevada Records of Criminal History two complete sets of fingerprints for submission to the Federal Bureau of Investigation for its report.~~

~~2. The Central Repository for Nevada Records of Criminal History shall~~ ***search the record of criminal history of the applicant and forward the record to the Health Division together with the report obtained from the Federal Bureau of Investigation pursuant to subsection 1. The Health Division shall review the record and report and*** ~~determine whether the applicant has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188 and immediately inform the administrator of~~ ***, or the person licensed to operate,*** ~~the facility [, if any, and the Health Division] of whether the applicant has been convicted of such a crime.]~~ **(Deleted by amendment.)**

Sec. 23. ~~[NRS 449.179 is hereby amended to read as follows:~~

~~449.179 1. Except as otherwise provided in subsection 2, within 10 days after hiring an employee or entering into a contract with an independent contractor, the administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups shall:~~

~~(a) Obtain a written statement from the employee or independent contractor stating whether he has been convicted of any crime listed in NRS 449.188;~~

~~(b) Obtain an oral and written confirmation of the information contained in the written statement obtained pursuant to paragraph (a);~~

~~(c) Obtain from the employee or independent contractor two sets of fingerprints and a written authorization to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(d) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (c).~~

~~2. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups is not required to obtain the information described in subsection 1 from an employee or independent contractor who provides proof that an investigation of his criminal history has been conducted [by the Central Repository for Nevada Records of Criminal History] within the immediately preceding 6 months and the investigation did not indicate that the employee or independent contractor had been convicted of any crime set forth in NRS 449.188.~~

~~3. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups shall ensure that the criminal history of each employee or independent contractor who works at the agency or facility is investigated at least once every 5 years. The administrator or person shall:~~

~~(a) If the agency or facility does not have the fingerprints of the employee or independent contractor on file, obtain two sets of fingerprints from the employee or independent contractor;~~

~~(b) Obtain written authorization from the employee or independent contractor to forward the fingerprints on file or obtained pursuant to paragraph (a) to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and~~

~~(c) Submit the fingerprints to the Central Repository for Nevada Records of Criminal History.~~

~~4. Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall~~ ~~***search the record of criminal history of the employee or independent contractor and forward the record to the Health Division together with the report obtained from the Federal Bureau of Investigation pursuant to subsection 3. The Health Division shall review the records and report and***~~ ~~determine whether the employee or independent contractor has been convicted of a crime listed in NRS 449.188 and immediately inform the [Health Division and the] administrator of, or the person licensed to operate, the agency or facility at which the person works whether the employee or independent contractor has been convicted of such a crime.~~

~~5. The Central Repository for Nevada Records of Criminal History may impose a fee upon an agency or a facility that submits fingerprints pursuant to this section for the reasonable cost of [the investigation.] *taking any action described in this section.*~~ ~~The agency or facility may recover from the employee or independent contractor not more than one-half of the fee imposed by the Central Repository. If the agency or facility requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments.]~~ **(Deleted by amendment.)**

Sec. 24. ~~[NRS 449.185 is hereby amended to read as follows:~~

~~449.185 1. Upon receiving information [from] *provided by* the Central Repository for Nevada Records of Criminal History pursuant to NRS 449.179, or evidence from any other source, that an employee or independent contractor of an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188, the administrator of, or the person licensed to operate, the agency or facility~~

~~shall terminate the employment or contract of that person after allowing him time to correct the information as required pursuant to subsection 2.~~

~~2. If an employee or independent contractor believes that the information provided by the Central Repository is incorrect, he may immediately inform the agency or facility. An agency or facility that is so informed shall give the employee or independent contractor a reasonable amount of time of not less than 30 days to correct the information [received from] *provided by* the Central Repository before terminating the employment or contract of the person pursuant to subsection 1.~~

~~3. An agency or facility that has complied with NRS 449.179 may not be held civilly or criminally liable based solely upon the ground that the agency or facility allowed an employee or independent contractor to work:~~

~~(a) Before it received the information concerning the employee or independent contractor [from] *provided by* the Central Repository;~~

~~(b) During any period required pursuant to subsection 2 to allow the employee or independent contractor to correct that information;~~

~~(c) Based on the information [received from] *provided by* the Central Repository, if the information [received from] *provided by* the Central Repository was inaccurate; or~~

~~(d) Any combination thereof.~~

~~An agency or facility may be held liable for any other conduct determined to be negligent or unlawful.]~~ **(Deleted by amendment.)**

Sec. 25. NRS ~~[62H.220, 179A.190,]~~ 179A.270, 179A.280, 179A.290, 179A.400 ~~[,]~~ **and** 179A.410 ~~[and 179C.160]~~ are hereby repealed.

TEXT OF REPEALED SECTIONS

~~[62H.220 Division of Child and Family Services to collect certain information regarding child adjudicated delinquent for sexual offense; confidentiality.~~

~~1. For each child adjudicated delinquent for an unlawful act that would have been a sexual offense if committed by an adult, the Division of Child and Family Services shall collect from the juvenile courts, local juvenile probation departments and the staff of the youth correctional services, as directed by the Department of Health and Human Services:~~

~~(a) The information listed in NRS 62H.210;~~

~~(b) The name of the child; and~~

~~(c) All information concerning programs of treatment in which the child participated that:~~

~~(1) Were directly related to the delinquent act committed by the child; or~~

~~(2) Were designed or utilized to prevent the commission of another such act by the child in the future.~~

~~2. The Division of Child and Family Services shall provide the information collected pursuant to subsection 1 to the Central Repository for~~

~~use in the program established pursuant to NRS 179A.270, 179A.280 and 179A.290.~~

~~3. Except as otherwise provided in NRS 239.0115, all information containing the name of the child and all information relating to programs of treatment in which the child participated is confidential and must not be used for a purpose other than that provided for in this section and NRS 179A.290.~~

~~4. As used in this section, "sexual offense" means:~~

~~(a) Sexual assault pursuant to NRS 200.366;~~

~~(b) Statutory sexual seduction pursuant to NRS 200.368;~~

~~(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;~~

~~(d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;~~

~~(e) Incest pursuant to NRS 201.180;~~

~~(f) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;~~

~~(g) Open or gross lewdness pursuant to NRS 201.210;~~

~~(h) Indecent or obscene exposure pursuant to NRS 201.220;~~

~~(i) Lewdness with a child pursuant to NRS 201.230;~~

~~(j) Sexual penetration of a dead human body pursuant to NRS 201.450;~~

~~(k) Luring a child using a computer, system or network pursuant to NRS 201.560, if punished as a felony;~~

~~(l) Annoyance or molestation of a minor pursuant to NRS 207.260;~~

~~(m) An attempt to commit an offense listed in paragraphs (a) to (l), inclusive;~~

~~(n) An offense that is determined to be sexually motivated pursuant to NRS 175.547; or~~

~~(o) An offense committed in another jurisdiction that, if committed in this State, would have been an offense listed in this subsection.~~

~~179A.190 Notice of information may be disseminated to employers; use by employer; employer not liable for discrimination; other dissemination or release; offenses for which notice may be disseminated.~~

~~1. Notice of information relating to the offenses listed in subsection 4 may be disseminated to employers pursuant to NRS 179A.180 to 179A.240, inclusive.~~

~~2. An employer may consider such a notice of information concerning an employee when making a decision to hire, retain, suspend or discharge the employee, and is not liable in an action alleging discrimination based upon consideration of information obtained pursuant to NRS 179A.180 to 179A.240, inclusive.~~

~~3. The provisions of NRS 179A.180 to 179A.240, inclusive, do not limit or restrict any other statute specifically permitting the dissemination or release of information relating to the offenses listed in subsection 4.~~

~~4. The offenses for which a notice of information may be disseminated pursuant to subsection 1 includes information contained in or concerning a~~

~~record of criminal history, or the records of criminal history of the United States or another state, relating in any way to:~~

~~(a) A sexual offense;~~

~~(b) A conviction for a felony within the immediately preceding 7 years;~~

~~(c) An act committed outside this State that would constitute a sexual offense if committed in this State or a conviction for an act committed outside this State that would constitute a felony if committed in this State; and~~

~~(d) The aiding, abetting, attempting or conspiring to engage in any such act in this State or another state.~~**]**

179A.270 Legislative declaration. The Legislature hereby finds and declares that:

1. A significant number of offenders in Nevada have been convicted of sexual offenses. Many of these offenders have been convicted of sexual offenses on more than one occasion and many of these offenders began committing sexual offenses as juveniles.

2. There is a great need for a continuing statistical analysis regarding the recidivism of offenders who commit sexual offenses so that the most appropriate punishment and treatment may be identified to prevent these offenders from committing further sexual offenses.

179A.280 Definitions. As used in this section and NRS 179A.270 and 179A.290:

1. "Juvenile sex offender" means a child adjudicated delinquent for an act that, if committed by an adult, would be a sexual offense.

2. "Sexual offense" means:

(a) Sexual assault pursuant to NRS 200.366;

(b) Statutory sexual seduction pursuant to NRS 200.368;

(c) Battery with intent to commit sexual assault pursuant to NRS 200.400;

(d) An offense involving pornography and a minor pursuant to NRS 200.710 to 200.730, inclusive;

(e) Incest pursuant to NRS 201.180;

(f) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to NRS 201.195;

(g) Open or gross lewdness pursuant to NRS 201.210;

(h) Indecent or obscene exposure pursuant to NRS 201.220;

(i) Lewdness with a child pursuant to NRS 201.230;

(j) Sexual penetration of a dead human body pursuant to NRS 201.450;

(k) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony;

(l) An attempt to commit an offense listed in paragraphs (a) to (k), inclusive;

(m) An offense that is determined to be sexually motivated pursuant to NRS 175.547; or

(n) An offense committed in another jurisdiction that, if committed in this State, would be an offense listed in this subsection.

179A.290 Establishment; purposes; assistance from Department of Corrections and Division of Parole and Probation; report; limitations.

1. The Director of the Department shall establish within the Central Repository a program to compile and analyze data concerning offenders who commit sexual offenses. The program must be designed to:

(a) Provide statistical data relating to the recidivism of offenders who commit sexual offenses; and

(b) Use the data provided by the Division of Child and Family Services of the Department of Health and Human Services pursuant to NRS 62H.220 to:

(1) Provide statistical data relating to the recidivism of juvenile sex offenders after they become adults; and

(2) Assess the effectiveness of programs for the treatment of juvenile sex offenders.

2. The Division of Parole and Probation and the Department of Corrections shall assist the Director of the Department in obtaining data and in carrying out the program.

3. The Director of the Department shall report the statistical data and findings from the program to:

(a) The Legislature at the beginning of each regular session.

(b) The Advisory Commission on the Administration of Justice on or before January 31 of each even-numbered year.

4. The data acquired pursuant to this section is confidential and must be used only for the purpose of research. The data and findings generated pursuant to this section must not contain information that may reveal the identity of a juvenile sex offender or the identity of an individual victim of a crime.

179A.400 Creation; contents; retention of records; dissemination of information.

1. The Repository for Information Concerning Missing Persons is hereby created within the Central Repository.

2. The Repository for Information Concerning Missing Persons must contain a complete and systematic record of all persons who reside in this State who are reported missing.

3. Each record must include, without limitation, a data field for the following information concerning a missing person:

(a) The missing person's:

(1) Name, sex and race;

(2) Date and place of birth;

(3) Height and weight;

(4) Eye and hair color;

(5) Skin tone;

(6) Fingerprint classification;

(7) Social security number;

(8) Blood type;

(9) Footprint;

(10) Body X rays;

(11) Dental X rays, models and photographs; and

(12) Prescription for eyeglasses or contact lenses;

(b) Remarks of any dentist concerning the missing person;

(c) Any scar, mark, tattoo or other identifying characteristic of the missing person;

(d) The number, state and date of expiration of the driver's license of the missing person;

(e) The year, make, model, style, color and vehicle identification number of the motor vehicle of the missing person;

(f) The number, state, type and date of expiration of the license plate of the motor vehicle of the missing person;

(g) The date of last contact with the missing person;

(h) Whether the missing person is circumcised;

(i) The type and description of any jewelry the missing person may be wearing;

(j) The identifier of the originating agency; and

(k) The originating case number.

4. The Central Repository shall maintain each record of a missing person for 20 years after the person is located.

5. Records within the Repository for Information Concerning Missing Persons may be disseminated by an agency of criminal justice without restriction.

179A.410 Telephone service to disseminate information; availability; agencies of criminal justice to provide toll-free number upon request.

1. The Central Repository shall:

(a) Provide a toll-free telephone service for people within and outside of this State to disseminate information about missing persons; and

(b) Make the telephone service available for not less than 8 hours per day, 7 days per week, except that the Central Repository need not make the service available on a legal holiday.

2. Each agency of criminal justice in this State shall provide the toll-free number for the telephone service to each person who requests information of the agency about a missing person.

~~[179C.160 Registration information forwarded to Central Repository. Upon registering a convicted person pursuant to the provisions of this chapter, a sheriff or a chief of police shall forward all information concerning such registration to the Central Repository for Nevada Records of Criminal History in the manner prescribed by the Director of the Department of Public Safety.]~~

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 135.

Bill read second time.

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

Amendment No. 480.

AN ACT relating to state obligations; requiring the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations are issued or incurred; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State to borrow money or otherwise become obligated and to issue state securities or other evidence of the obligations, subject to various requirements. (NRS 349.150-349.364) This bill requires the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations may be issued or incurred. The review is required of certain obligations which require future state payments in an amount of $5,000,000 or more after the then-current budget biennium and which are not otherwise subject to review or exempt from review pursuant to statute. If the issuance or incurrence of an obligation is approved by the State Board of Finance, the State Treasurer is responsible for administering the issuance or incurrence of the obligation. This bill also allows the State Treasurer to exempt such obligations from review**.** ~~[or to approve their issuance or incurrence without approval by the State Board of Finance or administration by the State Treasurer.]~~

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

Section 1. Chapter 349 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a state agency, officer or employee responsible for issuing or incurring a state financial obligation shall not issue or incur the obligation unless:

(a) The state agency, officer or employee consults with the State Treasurer concerning:

(1) The structure of the obligation;

(2) The methods by which the obligation is to be sold or marketed, if applicable;

(3) The effect of the obligation on any applicable limitation on indebtedness or on the affordability of debt; and

(4) The financial prudence of issuing or incurring the obligation in its proposed form;

(b) The State Treasurer provides a written report addressing the matters required by paragraph (a) to the state agency, officer or employee responsible for issuing or incurring the obligation and to the State Board of Finance; and

(c) The State Board of Finance approves issuing or incurring the obligation.

2. The State Treasurer shall provide the report required by subsection 1 not later than ~~[60]~~ 30 days after the state agency, officer or employee requests the State Treasurer to review the proposed obligation , except that if the request concerns a state financial obligation proposed pursuant to the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, for which required regulations have not been adopted by the appropriate federal agency at the time the review is requested, the report must be provided not later than 15 days after the adoption of such regulations. If the State Treasurer does not provide the report within ~~[that]~~ the required period, the state agency, officer or employee may issue or incur the obligation without the State Board of Finance approving the issuance or incurrence of the obligation or the State Treasurer administering the issuance or incurrence pursuant to subsection 3. ~~[The State Treasurer may at any time authorize the state agency, officer or employee to issue or incur the obligation without the approval of the State Board of Finance or administration by the State Treasurer pursuant to subsection 3.]~~

3. Except as otherwise provided in subsection 2, the State Treasurer:

(a) May employ all necessary legal, financial and other professional services necessary or desirable in connection with the authorization, sale, issuance or other incurrence of a state financial obligation. All services employed pursuant to this paragraph must be provided by contractors selected through a process of open competitive bidding.

(b) Is primarily responsible for arranging the issuance or incurrence of a state financial obligation after it has been approved by the State Board of Finance.

4. The costs incurred in producing a report pursuant to this section, any costs incurred pursuant to subsection 3, and any costs incurred in connection with the authorization, sale, issuance or other incurrence of a state financial obligation pursuant to this section:

(a) Must be paid as an expense of the state financial obligation if the sale, issuance or other incurrence of the obligation is approved.

(b) Must be paid by the state agency which requested that the state financial obligation be issued or incurred if the sale, issuance or other incurrence of the obligation is not approved.

5. This section does not apply to:

(a) A state financial obligation which under its terms is expected to be fully paid and retired:

(1) With money appropriated on or before the date the obligation is issued or incurred;

(2) With money set aside on or before the date the obligation is issued or incurred for the purpose of paying the obligation; or

(3) With the proceeds of a bond issue which has been authorized by the Legislature and which will be issued under the supervision of the State Treasurer with the approval of the State Board of Finance.

(b) A state financial obligation subject to the provisions of NRS 538.206 or which is issued pursuant to chapter 319 of NRS or NRS 349.400 to 349.987, inclusive.

(c) A state financial obligation of the Nevada System of Higher Education which is required to be repaid from a source other than state appropriations.

(d) A state financial obligation incurred as a result of employment, including, without limitation, the obligation to pay retirement benefits.

(e) A state financial obligation which is required by federal law.

(f) A state financial obligation to another governmental entity.

(g) A state financial obligation which by statute is issued or incurred under the supervision of the State Treasurer with the approval of the State Board of Finance.

(h) A contract to retrofit a state building for energy efficiency which has been approved pursuant to NRS 338.1906.

(i) A state financial obligation which is exempted by a regulation adopted by the State Treasurer pursuant to this section.

~~*[5.]*~~ ***6. The State Treasurer may adopt such regulations as he deems necessary to carry out the provisions of this section.***

~~*[6.]*~~ ***7. As used in this section:***

(a) "Future state payments" means the payment of money to be made from state taxes or fees imposed or collected by the State or an agency or department thereof, state appropriations, revenues from state property, revenues from franchises or concessions granted by the State or any agency, department or employee thereof if the payment is:

(1) Unconditionally required to be made;

(2) Required to be made only if an appropriation therefor is made; or

(3) Required to be made only on the occurrence or nonoccurrence of other conditions.

(b) "State financial obligation" means any obligation of the State, including, without limitation, a bond, a note, a line of credit, a lease or installment purchase agreement, any funding for a public-private partnership or any other borrowing ~~*[or other obligation to pay money]*~~ ***issued or incurred by or on behalf of the State or any department or agency of the State which requires future state payments in an amount of $5,000,000 or more after the budget biennium in which the obligation is issued or incurred. For the purposes of this paragraph, a "budget biennium" is a period beginning on July 1 of an odd-numbered year and ending on June 30 of the next succeeding odd-numbered year.***

Sec. 2. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 349 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a state agency, officer or employee responsible for issuing or incurring a state financial obligation shall not issue or incur the obligation unless:

(a) The state agency, officer or employee consults with the State Treasurer concerning:

(1) The structure of the obligation;

(2) The methods by which the obligation is to be sold or marketed, if applicable;

(3) The effect of the obligation on any applicable limitation on indebtedness or on the affordability of debt; and

(4) The financial prudence of issuing or incurring the obligation in its proposed form;

(b) The State Treasurer provides a written report addressing the matters required by paragraph (a) to the state agency, officer or employee responsible for issuing or incurring the obligation and to the State Board of Finance; and

(c) The State Board of Finance approves issuing or incurring the obligation.

2. The State Treasurer shall provide the report required by subsection 1 not later than 30 days after the state agency, officer or employee requests the State Treasurer to review the proposed obligation, except that if the request concerns a state financial obligation proposed pursuant to the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, for which required regulations have not been adopted by the appropriate federal agency at the time the review is requested, the report must be provided not later than 15 days after the adoption of such regulations. If the State Treasurer does not provide the report within the required period, the state agency, officer or employee may issue or incur the obligation without the State Board of Finance approving the issuance or incurrence of the obligation or the State Treasurer administering the issuance or incurrence pursuant to subsection 3.

3. Except as otherwise provided in subsection 2, the State Treasurer:

(a) May employ all necessary legal, financial and other professional services necessary or desirable in connection with the authorization, sale, issuance or other incurrence of a state financial obligation. All services employed pursuant to this paragraph must be provided by contractors selected through a process of open competitive bidding.

(b) Is primarily responsible for arranging the issuance or incurrence of a state financial obligation after it has been approved by the State Board of Finance.

4. The costs incurred in producing a report pursuant to this section, any costs incurred pursuant to subsection 3, and any costs incurred in connection with the authorization, sale, issuance or other incurrence of a state financial obligation pursuant to this section:

(a) Must be paid as an expense of the state financial obligation if the sale, issuance or other incurrence of the obligation is approved.

(b) Must be paid by the state agency which requested that the state financial obligation be issued or incurred if the sale, issuance or other incurrence of the obligation is not approved.

5. This section does not apply to:

(a) A state financial obligation which under its terms is expected to be fully paid and retired:

(1) With money appropriated on or before the date the obligation is issued or incurred;

(2) With money set aside on or before the date the obligation is issued or incurred for the purpose of paying the obligation; or

(3) With the proceeds of a bond issue which has been authorized by the Legislature and which will be issued under the supervision of the State Treasurer with the approval of the State Board of Finance.

(b) A state financial obligation subject to the provisions of NRS 538.206 or which is issued pursuant to chapter 319 of NRS or NRS 349.400 to 349.987, inclusive.

(c) A state financial obligation of the Nevada System of Higher Education which is required to be repaid from a source other than state appropriations.

(d) A state financial obligation incurred as a result of employment, including, without limitation, the obligation to pay retirement benefits.

(e) A state financial obligation which is required by federal law.

(f) A state financial obligation to another governmental entity.

(g) A state financial obligation which by statute is issued or incurred under the supervision of the State Treasurer with the approval of the State Board of Finance.

(h) ~~[A contract to retrofit a state building for energy efficiency which has been approved pursuant to NRS 338.1906.~~

~~(i)]~~ A state financial obligation which is exempted by a regulation adopted by the State Treasurer pursuant to this section.

6. The State Treasurer may adopt such regulations as he deems necessary to carry out the provisions of this section.

7. As used in this section:

(a) "Future state payments" means the payment of money to be made from state taxes or fees imposed or collected by the State or an agency or department thereof, state appropriations, revenues from state property, revenues from franchises or concessions granted by the State or any agency, department or employee thereof if the payment is:

(1) Unconditionally required to be made;

(2) Required to be made only if an appropriation therefor is made; or

(3) Required to be made only on the occurrence or nonoccurrence of other conditions.

(b) "State financial obligation" means any obligation of the State, including, without limitation, a bond, a note, a line of credit, a lease or installment purchase agreement, any funding for a public-private partnership or any other borrowing issued or incurred by or on behalf of the State or any

department or agency of the State which requires future state payments in an amount of $5,000,000 or more after the budget biennium in which the obligation is issued or incurred. For the purposes of this paragraph, a "budget biennium" is a period beginning on July 1 of an odd-numbered year and ending on June 30 of the next succeeding odd-numbered year.

Sec. 3. 1. This section and section 1 of this act become effective on July 1, 2009.

2. Section 2 of this act becomes effective on May 1, 2013.

Assemblywoman Leslie moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 140.

Bill read second time.

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

Amendment No. 432.

SUMMARY—Makes various changes to provisions relating to foreclosures of real property. (BDR ~~[54-228)]~~ **2-228)**

AN ACT relating to real property; ~~[creating the Office of the Ombudsman for Foreclosures;]~~ revising provisions relating to a notice of sale of real property under execution; establishing the crime of defacing a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee's power of sale; establishing rights and duties of a purchaser of real property pursuant to a foreclosure sale and establishing rights and duties of a tenant in possession of such property; revising provisions relating to a sale of real property pursuant to a trustee's power of sale; requiring a landlord to make certain disclosures to a prospective tenant; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill creates the Office of the Ombudsman for Foreclosures to provide information relating to the foreclosure process.]~~ **Sections 2 and 7** of this bill revise existing law by requiring that a notice of sale of real property under execution or a notice of sale of real property pursuant to a trustee's power of sale be served upon the State Board of Health if the real property is operated as a licensed health facility. ~~[Sections 2 and 7 also require such notices to include the contact information for the Office of the Ombudsman for Foreclosures and the lender's loss mitigation department.]~~ **Sections 2 and ~~[7 further]~~ 6.7 of this bill** require **, if the sale of property is a residential foreclosure,** a separate notice to be served upon any tenant or subtenant, other than the judgment debtor, in actual occupation of the real property subject to a notice of sale under execution or a notice of sale pursuant to a trustee's power of sale to inform the tenant or subtenant that the property is subject to a notice of sale. (NRS 21.130 **) ~~[, 107.080)]~~** **Sections 3 and 8** of this bill make it unlawful for a person to willfully

remove or deface a notice of sale under execution or a notice of sale pursuant to a trustee's power of sale which is posted on real property. (NRS 21.140, 107.084) **Sections 4 and 6** of this bill require the purchaser of a vacant residential property at a foreclosure sale or a trustee's sale to maintain the exterior of the property. **Sections 4 and 6** also authorize the appropriate governmental entity to assess a civil penalty of up to $1,000 per day, under certain circumstances, for failure to maintain the property.

Existing law provides that a person who holds over and continues in possession of real property that has been foreclosed after a 3-day notice to quit has been served upon him may be removed. (NRS 40.255) **Section 5** of this bill provides that a tenant or subtenant, other than the person whose name appears on the mortgage or deed of trust, may be removed only after the expiration of a specified period not to exceed 60 days ~~[.]~~ **if the property has been sold as a residential foreclosure.** **Section 5** also requires the tenant or subtenant who remains in occupation of the real property to remit rent to the new owner of the property pending expiration of the specified period. **Section 5** further prohibits any person from entering a record of eviction for a tenant or subtenant who vacates the property within the specified period ~~[.]~~ **if the property has been sold as a residential foreclosure.** Finally, **section 5** allows the new owner of the real property **, if the property has been sold as a residential foreclosure,** to negotiate a new purchase, lease or rental agreement with the tenant or subtenant in occupation of the property or to offer a payment in exchange for the tenant or subtenant vacating the property on a date earlier than the end of the specified period.

Section 5.5 of this bill requires a landlord to file proof of service with the court of any notice required to be served before the removal of a person who holds over and continues in possession of real property after receiving a 3-day notice to quit. (NRS 40.280)

Section 9 of this bill requires a landlord to disclose in writing to a prospective tenant if the property to be leased or rented is the subject of foreclosure proceedings. **Section 9** also makes it a deceptive trade practice for any landlord to willfully fail to make such a disclosure.

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

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

~~*1. The Office of the Ombudsman for Foreclosures is hereby created within the Division.*~~

~~*2. The Commissioner shall appoint the Ombudsman.*~~

~~*3. The Ombudsman must be qualified by training and experience to perform the duties and functions of his office.*~~

~~*4. The Ombudsman shall:*~~

~~*(a) Assist homeowners to understand their rights and responsibilities with respect to the foreclosure process in this State by providing any*~~

~~*relevant information, including, without limitation, an explanation of the applicable provisions of NRS and the time frame within which the foreclosure process occurs; and*~~

~~*(b) Perform such other tasks as are necessary to carry out his duties and the functions of his office.]*~~ **(Deleted by amendment.)**

Sec. 2. NRS 21.130 is hereby amended to read as follows:

21.130 1. Before the sale of property on execution, notice of the sale, in addition to the notice required pursuant to NRS 21.075 and 21.076, must be given as follows:

(a) In cases of perishable property, by posting written notice of the time and place of sale in three public places at the township or city where the sale is to take place, for such a time as may be reasonable, considering the character and condition of the property.

(b) In case of other personal property, by posting a similar notice in three public places of the township or city where the sale is to take place, not less than 5 ~~[nor]~~ ***or*** more than 10 days before the sale, and, in case of sale on execution issuing out of a district court, by the publication of a copy of the notice in a newspaper, if there is one in the county, at least twice, the first publication being not less than 10 days before the date of the sale.

(c) In case of real property, by:

(1) Personal service upon each judgment debtor or by registered mail to the last known address of each judgment debtor ~~[;]~~ ***and, if the property of the judgment debtor is operated as a facility licensed under chapter 449 of NRS, upon the State Board of Health;***

(2) 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]~~

(3) Publishing a copy of the notice three times, once each week, for 3 successive weeks, in a newspaper, if there is one in the county. The cost of publication must not exceed the rate for legal advertising as provided in NRS 238.070. If the newspaper authorized by this section to publish the notice of sale neglects or refuses from any cause to make the publication, then the posting of notices as provided in this section shall be deemed sufficient notice. Notice of the sale of property on execution upon a judgment for any sum less than $500, exclusive of costs, must be given only by posting in three public places in the county, one of which must be the courthouse ~~[.]~~ ***; and***

(4) ~~*[Posting]*~~ ***If the sale of property is a residential foreclosure, posting a copy of the notice in a conspicuous place on the property. In addition to the requirements of NRS 21.140, the notice must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.***

2. ~~*[The]*~~ ***If the sale of property is a residential foreclosure, the notice must include, without limitation:***

(a) The ~~*[contact information of the Office of the Ombudsman for Foreclosures;]*~~ ***physical address of the property; and***

(b) The contact information of the ~~*[lender's loss mitigation department, if any, or any other person associated with the lender]*~~ ***party who*** ~~*[may]*~~ ***is authorized to provide information relating to the foreclosure status of the property.***

3. ~~*[A]*~~ ***If the sale of property is a residential foreclosure, a separate notice must be served by personal delivery or by certified mail, return receipt requested, to any tenant or subtenant, if any, other than the judgment debtor, in actual occupation of the premises at the same time the notice of the sale is given pursuant to subsection 1. The separate notice must include, without limitation:***

(a) A statement informing the tenant or subtenant that:

(1) A notice of the sale of the property has been issued;

(2) The tenant or subtenant may either terminate the lease or rental agreement or, if the tenant or subtenant chooses to remain in occupation of the premises, the tenant or subtenant will be subject to eviction proceedings; and

(3) The provisions of chapter 40 of NRS govern the applicable eviction proceedings; and

(b) An explanation of the eviction procedures and the time frame within which the eviction may occur.

4. The sheriff shall not conduct a sale of the property on execution or deliver the judgment debtor's property to the judgment creditor if the judgment debtor ***or any other person entitled to notice*** has not been properly notified as required in this section and NRS 21.075 and 21.076.

5. As used in this section, ~~*["loss mitigation department" means the department of the lender which is responsible for overseeing the delinquency of loans prior to the initiation of foreclosure proceedings.]*~~ ***"residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.***

Sec. 3. NRS 21.140 is hereby amended to read as follows:

21.140 1. An officer selling without the notice prescribed by NRS 21.075, 21.076 and 21.130 forfeits $500 to the aggrieved party, in addition to his actual damages.

2. ~~[A]~~ ***It is unlawful for a*** person ***to*** willfully ~~[taking]~~ ***take*** down or ~~[defacing]~~ ***deface*** the notice posted pursuant to NRS 21.130, if done before the sale or, if the judgment is satisfied before sale, before the satisfaction of the judgment ***.*** ~~[, forfeits]~~ ***In addition to any other penalty, any person who violates this subsection shall forfeit*** $500 to the aggrieved party.

Sec. 4. Chapter 40 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any vacant residential property purchased or acquired by a person at a foreclosure sale pursuant to NRS 40.430 must be maintained by that person in accordance with subsection 2.

2. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser shall care for the exterior of the property, including, without limitation:

(a) Limiting the excessive growth of foliage which would otherwise diminish the value of <u>that property or of the</u> surrounding properties;

(b) Preventing trespassers from remaining on the property;

(c) Preventing mosquito larvae from growing in standing water; and

(d) Preventing any other condition that creates a public nuisance.

3. If a person violates subsection 2, the applicable governmental entity shall mail to the last known address of the person, by ~~[first class]~~ <u>certified</u> mail, a notice:

(a) Describing the violation;

(b) Informing the person that a civil penalty may be imposed pursuant to this section unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and

(c) Informing the person that he may contest the allegation pursuant to subsection 4.

4. If a person, within 5 days after a notice is mailed to him pursuant to subsection 3, requests a hearing to contest the allegation of a violation of subsection 2, the applicable governmental entity shall apply for a hearing before a court of competent jurisdiction.

5. Except as otherwise provided in subsection 8, in addition to any other penalty, the applicable governmental entity may impose a civil penalty of not more than $1,000 per day for a violation of subsection 2:

(a) Commencing on the day following the expiration of the period of time described in subsection 3; or

(b) If the person requested a hearing pursuant to subsection 4, commencing on the day following a determination by the court in favor of the applicable governmental entity.

6. The applicable governmental entity may waive or extend the period of time described in subsection 3 if:

(a) The person to whom a notice is sent pursuant to subsection 3 makes a good faith effort to correct the violation; and

(b) The violation cannot be corrected in the period of time described in subsection 3.

7. Any penalty collected by the applicable governmental entity pursuant to this section must be directed to local nuisance abatement programs.

8. The applicable governmental entity may not assess any penalty pursuant to this section in addition to any penalty prescribed by a local ordinance. This section shall not be deemed to preempt any local ordinance.

9. As used in this section, "applicable governmental entity" means:

(a) If the property is within the boundaries of a city, the governing body of the city; and

(b) If the property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located . ~~[; and~~

~~*(c) If the property is within a common-interest community, the executive board of the association.]*~~

Sec. 5. NRS 40.255 is hereby amended to read as follows:

40.255 1. Except as provided in ~~[subsection]~~ ***subsections*** 2 ~~[,]~~ ***and 7,*** in any of the following cases, a person who holds over and continues in possession of real property or a mobile home after a 3-day written notice to quit has been served upon him ~~[, and also upon any subtenant in actual occupation of the premises, pursuant to NRS 40.280,]~~ may be removed as prescribed in NRS 40.290 to 40.420, inclusive:

(a) Where the property or mobile home has been sold under an execution against him or a person under whom he claims, and the title under the sale has been perfected;

(b) Where the property or mobile home has been sold upon the foreclosure of a mortgage, or under an express power of sale contained therein, executed by him or a person under whom he claims, and the title under the sale has been perfected;

(c) Where the property or mobile home has been sold under a power of sale granted by NRS 107.080 to the trustee of a deed of trust executed by such person or a person under whom he claims, and the title under such sale has been perfected; or

(d) Where the property or mobile home has been sold by him or a person under whom he claims, and the title under the sale has been perfected.

2. ~~*[A]*~~ ***If the property has been sold as a residential foreclosure, a tenant or subtenant in actual occupation of the premises, other than a person whose name appears on the mortgage or deed, who holds over and continues in possession of real property or a mobile home in any of the cases described in paragraph (b) or (c) of subsection 1 may be removed as prescribed in NRS 40.290 to 40.420, inclusive, after receiving a notice of the change of ownership of the real property or mobile home and after the expiration of a notice period beginning on the date the notice was received by the tenant or subtenant and expiring:***

(a) ~~*[Except as otherwise provided in paragraph (b), for]*~~ ***For all periodic tenancies with a period of less than*** ~~*[60 days,]*~~ ***1 month, after not less than the number of days in the period; and***

(b) ~~*[For month-to-month tenancies after not less than 30 days; and*~~

~~*(c)]*~~ ***For all other periodic tenancies or tenancies at will, after not less than 60 days.***

3. During the notice period described in subsection 2:

(a) The new owner has the rights, obligations and liabilities of the previous owner or landlord pursuant to chapter 118A of NRS under the lease or rental agreement which the previous owner or landlord entered into with the tenant or subtenant regarding the property; and

(b) The tenant or subtenant continues to have the rights, obligations and liabilities he had pursuant to chapter 118A of NRS under the lease or rental agreement which he entered into with the previous owner or landlord regarding the property.

4. The notice described in subsection 2 must contain a statement:

(a) Providing the contact information of the new owner to whom rent should be remitted;

(b) Notifying the tenant or subtenant that the lease or rental agreement he entered into with the previous owner or landlord of the property continues in effect through the notice period described in subsection 2; and

(c) Notifying the tenant or subtenant that failure to pay rent to the new owner or comply with any other term of the agreement or applicable law constitutes a breach of the lease or rental agreement and may result in eviction proceedings.

5. [No] If the property has been sold as a residential foreclosure in any of the cases described in paragraph (b) or (c) of subsection 1, no person may enter a record of eviction for a tenant or subtenant who vacates a property during the notice period described in subsection 2.

6. [Nothing] If the property has been sold as a residential foreclosure in any of the cases described in paragraphs (b) or (c) of subsection 1, nothing in this section shall be deemed to prohibit [the] :

(a) The tenant from vacating the property at any time before the expiration of the notice period described in subsection 2 without any obligation to the new owner of a property purchased pursuant to a foreclosure sale or trustee's sale; or

(b) The new owner of a property purchased pursuant to a foreclosure sale or trustee's sale from:

[(a)] (1) Negotiating a new purchase, lease or rental agreement with the tenant or subtenant; or

[(b)] (2) Offering a payment to the tenant or subtenant in exchange for vacating the premises on a date earlier than the expiration of the notice period described in subsection 2.

7. This section does not apply to the tenant of a mobile home lot in a mobile home park.

8. As used in this section, "residential foreclosure" means the sale of a single family residence pursuant to NRS 40.430 or under a power of sale granted by NRS 107.080. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.

Sec. 5.5. **NRS 40.280 is hereby amended to read as follows:**

40.280 1. Except as otherwise provided in NRS 40.253, the notices required by NRS 40.251 to 40.260, inclusive, may be served:

(a) By delivering a copy to the tenant personally, in the presence of a witness;

(b) If he is absent from his place of residence or from his usual place of business, by leaving a copy with a person of suitable age and discretion at either place and mailing a copy to the tenant at his place of residence or place of business; or

(c) If the place of residence or business cannot be ascertained, or a person of suitable age or discretion cannot be found there, by posting a copy in a conspicuous place on the leased property, delivering a copy to a person there residing, if the person can be found, and mailing a copy to the tenant at the place where the leased property is situated.

2. Service upon a subtenant may be made in the same manner as provided in subsection 1.

3. Before an order to remove a tenant is issued pursuant to subsection 5 of NRS 40.253, a landlord shall file with the court a proof of service of any notice required by that section. ***Before a person may be removed as prescribed in NRS 40.290 to 40.420, inclusive, a landlord shall file with the court proof of service of any notice required pursuant to NRS 40.255.*** Except as otherwise provided in subsection 4, this proof must consist of:

(a) A statement, signed by the tenant and a witness, acknowledging that the tenant received the notice on a specified date;

(b) A certificate of mailing issued by the United States Postal Service; or

(c) The endorsement of a sheriff, constable or other process server stating the time and manner of service.

4. If service of the notice was not delivered in person to a tenant whose rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, proof of service must include:

(a) A certificate of mailing issued by the United States Postal Service or by a private postal service to the landlord or his agent; or

(b) The endorsement of a sheriff or constable stating the:

(1) Time and date the request for service was made by the landlord or his agent;

(2) Time, date and manner of the service; and

(3) Fees paid for the service.

Sec. 6. Chapter 107 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 6.3 and 6.7 of this act.**

Sec. 6.3. 1. Any vacant residential property purchased or acquired by a person at a trustee's sale pursuant to NRS 107.080 must be maintained by that person in accordance with subsection 2.

2. In addition to complying with any other ordinance or rule as required by the applicable governmental entity, the purchaser shall care for the exterior of the property, including, without limitation:

(a) Limiting the excessive growth of foliage which would otherwise diminish the value of that property or of the surrounding properties;

(b) Preventing trespassers from remaining on the property;

(c) Preventing mosquito larvae from growing in standing water; and

(d) Preventing any other condition that creates a public nuisance.

3. If a person violates subsection 2, the applicable governmental entity shall mail to the last known address of the person, by ~~[first-class]~~ certified mail, a notice:

(a) Describing the violation;

(b) Informing the person that a civil penalty may be imposed pursuant to this section unless the person acts to correct the violation within 14 days after the date of receipt of the notice and completes the correction within 30 days after the date of receipt of the notice; and

(c) Informing the person that he may contest the allegation pursuant to subsection 4.

4. If a person, within 5 days after a notice is mailed to him pursuant to subsection 3, requests a hearing to contest the allegation of a violation of subsection 2, the applicable governmental entity shall apply for a hearing before a court of competent jurisdiction.

5. Except as otherwise provided in subsection 8, in addition to any other penalty, the applicable governmental entity may impose a civil penalty of not more than $1,000 per day for a violation of subsection 2:

(a) Commencing on the day following the expiration of the period of time described in subsection 3; or

(b) If the person requested a hearing pursuant to subsection 4, commencing on the day following a determination by the court in favor of the applicable governmental entity.

6. The applicable governmental entity may waive or extend the period of time described in subsection 3 if:

(a) The person to whom a notice is sent pursuant to subsection 3 makes a good faith effort to correct the violation; and

(b) The violation cannot be corrected in the period of time described in subsection 3.

7. Any penalty collected by the applicable governmental entity pursuant to this section must be directed to local nuisance abatement programs.

8. The applicable governmental entity may not assess any penalty pursuant to this section in addition to any penalty prescribed by a local ordinance. This section shall not be deemed to preempt any local ordinance.

9. As used in this section, "applicable governmental entity" means:

(a) If the property is within the boundaries of a city, the governing body of the city; and

(b) If the property is not within the boundaries of a city, the board of county commissioners of the county in which the property is located . ~~[;~~ ~~and~~

~~(c) If the property is within a common-interest community, the executive board of the association.]~~

Sec. 6.7. 1. In addition to the requirements of NRS 107.080, if the sale of property is a residential foreclosure, a copy of the notice of default, election to sell and the notice of sale must:

(a) Be posted in a conspicuous place on the property on the same day the notice of default, election to sell and the notice of sale is recorded pursuant to NRS 107.080; and

(b) Include, without limitation:

(1) The physical address of the property; and

(2) The contact information of the trustee or the person conducting the foreclosure who is authorized to provide information relating to the foreclosure status of the property.

2. In addition to the requirements of NRS 107.084, the notices must not be defaced or removed until the transfer of title is recorded or the property becomes occupied after completion of the sale, whichever is earlier.

3. A separate notice must be served upon any tenant or subtenant, if any, other than the grantor or his successor in interest, in actual occupation of the premises at the same time the notice of the sale is given pursuant to subsection 4 of NRS 107.080. The separate notice must be served in the manner prescribed in NRS 40.280 and must include, without limitation:

(a) A statement informing the tenant or subtenant that:

(1) A notice of the sale of the property has been issued;

(2) The tenant or subtenant may either terminate the lease or rental agreement or, if the tenant or subtenant chooses to remain in occupation of the premises, the tenant or subtenant will be subject to the eviction process; and

(3) The provisions of chapter 40 of NRS govern the applicable eviction process; and

(b) An explanation of the eviction procedures and the time frame within which the eviction may occur.

4. As used in this section, "residential foreclosure" has the meaning ascribed to it in NRS 107.080.

Sec. 7. 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 ~~[,]~~ ***and, if the property is operated as a facility licensed under chapter 449 of NRS, to the State Board of Health,*** at their respective addresses, if known, otherwise to the address of the trust property. The notice of default and election to sell must ~~[describe]~~ ***:***

(a) 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 ~~[.]~~ ***; and***

(b) If the property is a residential foreclosure, comply with the provisions of section 6.7 of this act.

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 ***and, if the property is operated as a facility licensed under chapter 449 of NRS, the State Board of Health,*** 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 ~~[.]~~ ***; and***

(d) ~~*[Posting a copy of the notice in a conspicuous place on the property.]*~~ ***If the property is a residential foreclosure, complying with the provisions of section 6.7 of this act.***

5. ~~*[The notice of sale must include, without limitation:*~~

~~*(a) The contact information of the Office of the Ombudsman for Foreclosures; and*~~

~~*(b) The contact information of the lender's loss mitigation department, if any, or any other person associated with the lender who may provide information relating to the foreclosure status of the property.*~~

~~*6. A separate notice must be served by personal delivery or by certified mail, return receipt requested, to any tenant or subtenant, if any, other than the judgment debtor, in actual occupation of the premises at the same time the notice of the sale is given pursuant to subsection 4. The separate notice must include, without limitation:*~~

~~*(a) A statement informing the tenant or subtenant that:*~~

~~*(1) A notice of the sale of the property has been issued;*~~

~~*(2) The tenant or subtenant may either terminate the lease or rental agreement or, if the tenant or subtenant chooses to remain in occupation of the premises, the tenant or subtenant will be subject to eviction proceedings; and*~~

~~*(3) The provisions of chapter 40 of NRS govern the applicable eviction proceedings; and*~~

~~*(b) An explanation of the eviction procedures and the time frame within which the eviction may occur.*~~

~~*7.]*~~ 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 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:

(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, ~~*[8,]*~~ 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. ~~*[8.]*~~ 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 ~~[7]~~ within 120 days after the date on which the person received actual notice of the sale.

7. ~~[9.]~~ 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.

~~[10.]~~ ***8. As used in this section,*** ~~["loss mitigation department" means the department of the lender which is responsible for overseeing the delinquency of loans prior to the initiation of foreclosure proceedings.]~~ ***"residential foreclosure" means the sale of a single family residence under a power of sale granted by this section. As used in this subsection, "single family residence" means a structure that is comprised of not more than four units.***

Sec. 8. NRS 107.084 is hereby amended to read as follows:

107.084 ~~[A]~~ ***It is unlawful for a*** person ~~[who]~~ ***to*** willfully ~~[removes]~~ ***remove*** or ~~[defaces]~~ ***deface*** a notice posted pursuant to subsection 4 of NRS 107.080, if done before the sale or, if the default is satisfied before the sale, before the satisfaction of the default ***.*** ~~[,]~~ ***In addition to any other penalty, any person who violates this section*** is liable in the amount of $500 to any person aggrieved by the removal or defacing of the notice.

Sec. 9. Chapter 118A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A landlord shall disclose in writing to a prospective tenant if the property to be leased or rented is the subject of any foreclosure proceedings.

2. A willful violation of subsection 1 constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 144.

Bill read second time.

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

Amendment No. 277.

AN ACT relating to real property; ~~[requiring certain annual or biennial examinations of mortgage brokers to include reviews of various written appraisals and other similar information;]~~ **prohibiting public disclosure of the results of an annual examination of a mortgage broker under certain circumstances; revising provisions relating to appraisals of real property securing a loan in which an investor invests money;** revising requirements which relate to the release of certain information on various mortgage brokers regarding ownership and management structure, annual or biennial examinations and other examinations or audits, investigations or hearings; suspending or revoking the license of certain mortgage brokers who receive

the lowest possible rating on two consecutive annual or biennial examinations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires annual or biennial examinations for various mortgage brokers. (NRS 645B.060) **Section 1** of this bill ~~[requires such examinations to include a review of certain written appraisals of real property and other similar information.]~~ **prohibits the results of an annual examination from being released to the public until after a period of time set by the Commissioner of Mortgage Lending to determine any objections made by the mortgage broker to the results.**

Existing law provides requirements regarding certain information on mortgage brokers that is to be made available for public inspection. (NRS 645B.090) **Section 2** of this bill revises those requirements in regard to mortgage brokers who **make or** offer for sale in this State any ~~[security which is exempt from registration under state or federal law and purports to make]~~ investments in promissory notes secured by liens on real property. The revised requirements relate to information regarding ownership and management structure, annual or biennial examinations, other examinations or audits, investigations or hearings, and standards for withholding other information.

Existing law prohibits a mortgage broker or mortgage agent from accepting money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property unless the mortgage broker has first obtained a written appraisal of the real property securing the loan. (NRS 645B.300) Section 2.5 of this bill requires the appraisal to be made not more than 6 months before the mortgage broker's first solicitation for the loan and the appraisal to meet certain standards. Section 2.5 further requires a mortgage broker to make additional disclosures to an investor if the investor waives the requirement that an appraisal be obtained.

Existing law provides requirements regarding disciplinary action for certain violations of law relating to the business of a mortgage broker. (NRS 645B.690) **Section 3** of this bill revises those requirements in regard to mortgage brokers who **make or** offer for sale in this State any ~~[security which is exempt from registration under state or federal law and purports to make]~~ investments in promissory notes secured by liens on real property. If such a mortgage broker receives the lowest possible rating on two consecutive annual or biennial examinations, the license of that mortgage broker will be suspended or revoked.

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

Section 1. NRS 645B.060 is hereby amended to read as follows:

645B.060 1. Subject to the administrative control of the Director of the Department of Business and Industry, the Commissioner shall exercise

general supervision and control over mortgage brokers and mortgage agents doing business in this State.

2. In addition to the other duties imposed upon him by law, the Commissioner shall:

(a) Adopt regulations:

(1) Setting forth the requirements for an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property. The regulations must include, without limitation, the minimum financial conditions that the investor must comply with before becoming an investor.

(2) Establishing reasonable limitations and guidelines on loans made by a mortgage broker to a director, officer, mortgage agent or employee of the mortgage broker.

(b) Adopt any other regulations that are necessary to carry out the provisions of this chapter, except as to loan brokerage fees.

(c) Conduct such investigations as may be necessary to determine whether any person has violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner.

(d) Except as otherwise provided in subsection 4, conduct an annual examination of each mortgage broker doing business in this State. The annual examination must include, without limitation, a formal exit review with the mortgage broker . ~~*[and an examination of all or a sample, as determined by the Commissioner, of any written appraisals performed pursuant to NRS 645B.300 and any other similar information used to appraise real property in regard to the acceptance of money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on the real property.]*~~ The Commissioner shall adopt regulations prescribing:

(1) Standards for determining the rating of each mortgage broker based upon the results of the annual examination; and

(2) Procedures for resolving any objections made by the mortgage broker to the results of the annual examination. The results of the annual examination may not be opened to public inspection pursuant to NRS 645B.090 until ~~[any objections made by the mortgage broker have been decided by the Commissioner.]~~ ***after a period of time set by the Commissioner*** ~~*[during which the mortgage broker may submit any objections to the annual examination.]*~~ ***to determine any objections made by the mortgage broker.***

(e) Conduct such other examinations, periodic or special audits, investigations and hearings as may be necessary for the efficient administration of the laws of this State regarding mortgage brokers and mortgage agents. The Commissioner shall adopt regulations specifying the general guidelines that will be followed when a periodic or special audit of a mortgage broker is conducted pursuant to this chapter.

(f) Classify as confidential certain records and information obtained by the Division when those matters are obtained from a governmental agency upon

the express condition that they remain confidential. This paragraph does not limit examination by:

(1) The Legislative Auditor; or

(2) The Department of Taxation if necessary to carry out the provisions of chapter 363A of NRS.

(g) Conduct such examinations and investigations as are necessary to ensure that mortgage brokers and mortgage agents meet the requirements of this chapter for obtaining a license, both at the time of the application for a license and thereafter on a continuing basis.

3. For each special audit, investigation or examination, a mortgage broker or mortgage agent shall pay a fee based on the rate established pursuant to NRS 645F.280.

4. The Commissioner may conduct ~~[biennial]~~ examinations of a mortgage broker **,** ~~[instead of annual examinations,]~~ as described in paragraph (d) of subsection 2, ***on a biennial instead of an annual basis*** if the mortgage broker:

(a) Received a rating in the last annual examination that meets a threshold determined by the Commissioner;

(b) Has not had any adverse change in financial condition since the last annual examination, as shown by financial statements of the mortgage broker;

(c) Has not had any complaints received by the Division that resulted in any administrative action by the Division; and

(d) Does not maintain any trust accounts pursuant to NRS 645B.170 or 645B.175 or arrange loans funded by private investors.

Sec. 2. NRS 645B.090 is hereby amended to read as follows:

645B.090 1. Except as otherwise provided in this section or by specific statute, all papers, documents, reports and other written instruments filed with the Commissioner pursuant to this chapter are open to public inspection.

2. Except as otherwise provided in subsection 3, the Commissioner may withhold from public inspection or refuse to disclose to a person, for such time as the Commissioner considers necessary, any information that, in his judgment, would:

(a) Impede or otherwise interfere with an investigation ***or examination*** that is currently pending against a mortgage broker; ~~*[or]*~~

(b) Have an undesirable effect on the welfare of the public ~~*[.]*~~ ~~[or the welfare of any mortgage broker or mortgage agent; or~~

~~(c) Give any mortgage broker a competitive advantage over any other mortgage broker.]~~ ***; or***

(c) Reveal personal information in violation of NRS 239B.030.

3. Except as otherwise provided in NRS 645B.092, the Commissioner shall disclose the following information concerning a mortgage broker to any person who requests it ~~[.]~~ ***, including, without limitation, a member of the news media:***

(a) The findings and results of any investigation which has been completed during the immediately preceding 5 years against the mortgage broker pursuant to the provisions of this chapter and which has resulted in a finding by the Commissioner that the mortgage broker committed a violation of a provision of this chapter, a regulation adopted pursuant to this chapter or an order of the Commissioner; ~~[and]~~

(b) The nature of any disciplinary action that has been taken during the immediately preceding 5 years against the mortgage broker pursuant to the provisions of this chapter ~~[.]~~ ***; and***

(c) If the mortgage broker makes or offers for sale in this State any ~~*[security which is exempt from registration under state or federal law and purports to make]*~~ ***investments in promissory notes secured by liens on real property:***

(1) Any information in the possession of the Commissioner regarding the present and past ownership and management structure of the mortgage broker; and

(2) The findings and results of:

(I) All examinations or investigations of the mortgage broker conducted pursuant to NRS 645B.060 during the immediately preceding 5 years, including, without limitation, annual or biennial examinations of the mortgage broker conducted pursuant to NRS 645B.060, including, without limitation, the rating for each annual or biennial examination and an explanation of the standards for determining that rating; and

(II) Any other examination or audit, investigation or hearing which has been completed during the immediately preceding 3 years against the mortgage broker pursuant to the provisions of this chapter.

Sec. 2.5. **NRS 645B.300 is hereby amended to read as follows:**

645B.300 1. Except as otherwise provided in subsection 4, a mortgage broker or mortgage agent shall not accept money from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on real property, unless the mortgage broker has obtained a written appraisal of the real property securing the loan.

2. The written appraisal of the real property:

(a) ***Must be completed not more than 6 months before the mortgage broker's first solicitation for the loan;***

(b) Must meet the standards set forth in the Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Standards Board of The Appraisal Foundation;

(c) Must be performed by an appraiser who is authorized to perform appraisals in this State ~~[;]~~ ***or in the state where the real property securing the loan is located;*** and

~~[(b)]~~ ***(d)*** Must not be performed by the mortgage broker or a mortgage agent, unless the mortgage broker or mortgage agent is certified or licensed to perform such an appraisal pursuant to chapter 645C of NRS.

3. A copy of the written appraisal of the real property must be:

(a) Maintained at each office of the mortgage broker where money is accepted from an investor to acquire ownership of or a beneficial interest in a loan secured by a lien on the real property; and

(b) Made available during normal business hours for inspection by each such investor and the Commissioner.

4. A mortgage broker is not required to obtain a written appraisal of the real property pursuant to this section if the mortgage broker obtains a written waiver of the appraisal from each investor who acquires ownership of or a beneficial interest in a loan secured by a lien on the real property. A mortgage broker or mortgage agent shall not act as the attorney-in-fact or the agent of an investor with respect to the giving of a written waiver pursuant to this subsection.

5. ***If the mortgage broker obtains a written waiver of the appraisal as provided in subsection 4, the mortgage broker shall provide to each investor before he accepts any money from the investor a separate written disclosure which contains the information analyzed, the valuation methods and techniques employed and the reasoning for any opinion regarding value provided by or on behalf of the mortgage broker.***

6. As used in this section, "appraisal" has the meaning ascribed to it in NRS 645C.030.

Sec. 3. NRS 645B.690 is hereby amended to read as follows:

645B.690 1. If a person offers or provides any of the services of a mortgage broker or mortgage agent or otherwise engages in, carries on or holds himself out as engaging in or carrying on the business of a mortgage broker or mortgage agent and, at the time:

(a) The person was required to have a license pursuant to this chapter and the person did not have such a license; or

(b) The person's license was suspended or revoked pursuant to this chapter,

➥ the Commissioner shall impose upon the person an administrative fine of not more than $10,000 for each violation and, if the person has a license, the Commissioner shall ***suspend or*** revoke it.

2. If a mortgage broker violates any provision of subsection 1 of NRS 645B.080 and the mortgage broker fails, without reasonable cause, to remedy the violation within 20 business days after being ordered by the Commissioner to do so or within such later time as prescribed by the Commissioner, or if the Commissioner orders a mortgage broker to provide information, make a report or permit an examination of his books or affairs pursuant to this chapter and the mortgage broker fails, without reasonable cause, to comply with the order within 20 business days or within such later time as prescribed by the Commissioner, the Commissioner shall:

(a) Impose upon the mortgage broker an administrative fine of not more than $10,000 for each violation;

(b) Suspend or revoke the license of the mortgage broker; and

(c) Conduct a hearing to determine whether the mortgage broker is conducting business in an unsafe and injurious manner that may result in danger to the public and whether it is necessary for the Commissioner to take possession of the property of the mortgage broker pursuant to NRS 645B.630.

3. If a mortgage broker:

(a) ~~[Offers]~~ Makes or offers for sale in this State any ~~[security which is exempt from registration under state or federal law and purports to make]~~ investments in promissory notes secured by liens on real property; and

(b) Receives the lowest possible rating on two consecutive annual or biennial examinations pursuant to NRS 645B.060,

➥ the Commissioner shall suspend or revoke the license of the mortgage broker.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 176.

Bill read second time.

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

Amendment No. 246.

AN ACT relating to administrators of facilities for long-term care; renaming the Nevada State Board of Examiners for Administrators of Facilities for Long-Term Care as the Board of Examiners for Long-Term Care Administrators; revising provisions relating to disciplinary actions; granting subpoena powers to the Board; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1 and 2 of this bill change the name of the Nevada State Board of Examiners for Administrators of Facilities for Long-Term Care to the Board of Examiners for Long-Term Care Administrators.

Existing law establishes various penalties the Board may impose as disciplinary action against nursing facility administrators and administrators of a residential facility for groups who commit certain violations. (NRS 654.190) **Section 3** of this bill increases the **maximum** administrative fine the Board may impose upon such persons from $5,000 to $10,000 for each violation. **Section 3** also provides that the Board may deny the issuance or renewal of a license and impose any combination of authorized disciplinary actions against such persons for a violation. Additionally, **section 3** revises the **~~[~~**~~time within which written notice of a hearing must be provided to a licensee against whom a complaint is brought, from 10 days to 5 days before the date of the hearing.~~**~~]~~** **manner in which notice of a hearing relating to disciplinary action must be given to a licensee.** Furthermore,

section 3 establishes the Board's authority to subpoena witnesses and documents.

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

Section 1. NRS 654.020 is hereby amended to read as follows:

654.020 "Board" means the ~~[Nevada State]~~ Board of Examiners for ~~[Administrators of Facilities for]~~ Long-Term Care ~~[.]~~ ***Administrators.***

Sec. 2. NRS 654.050 is hereby amended to read as follows:

654.050 The ~~[Nevada State]~~ Board of Examiners for ~~[Administrators of Facilities for]~~ Long-Term Care ~~[,]~~ ***Administrators,*** consisting of the Director of the Department of Health and Human Services or his designee and six members appointed by the Governor, is hereby created within the Department of Health and Human Services.

Sec. 3. NRS 654.190 is hereby amended to read as follows:

654.190 1. The Board may, after notice and a hearing as required by law, impose an administrative fine of not more than ~~[$5,000]~~ ***$10,000 for each violation*** on, recover reasonable investigative fees and costs incurred from, suspend, revoke ***, deny the issuance or renewal of*** or place conditions on the license of, and place on probation ***or impose any combination of the foregoing on*** any nursing facility administrator or administrator of a residential facility for groups who:

(a) Is convicted of a felony relating to the practice of administering a nursing facility or residential facility or of any offense involving moral turpitude.

(b) Has obtained his license by the use of fraud or deceit.

(c) Violates any of the provisions of this chapter.

(d) Aids or abets any person in the violation of any of the provisions of NRS 449.001 to 449.240, inclusive, as those provisions pertain to a facility for skilled nursing, facility for intermediate care or residential facility for groups.

(e) Violates any regulation of the Board prescribing additional standards of conduct for nursing facility administrators or administrators of residential facilities for groups, including, without limitation, a code of ethics.

(f) Engages in conduct that violates the trust of a patient or resident or exploits the relationship between the nursing facility administrator or administrator of a residential facility for groups and the patient or resident for the financial or other gain of the licensee.

2. The Board shall give a licensee against whom proceedings are brought pursuant to this section written notice of a hearing ~~[not less than]~~ ~~[10]~~ ~~[5 days before the date of the hearing.]~~ ***pursuant to NRS 233B.121 and 241.034. A licensee may waive, in writing, his right to attend the hearing.***

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

4. The expiration of a license by operation of law or by order or decision of the Board or a court, or the voluntary surrender of a license, does not deprive the Board of jurisdiction to proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

5. The Board may compel the attendance of witnesses or the production of documents or objects by subpoena. The Board may adopt regulations that set forth a procedure pursuant to which the Chairman of the Board may issue subpoenas on behalf of the Board. Any person who is subpoenaed pursuant to this subsection may request the Board to modify the terms of the subpoena or grant additional time for compliance.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 179.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 162.

AN ACT relating to criminal procedure; authorizing certain persons convicted of a **category A or B** felony to petition the court for postconviction genetic marker analysis; **providing the information that must be contained in a petition for such postconviction genetic marker analysis;** revising the circumstances under which genetic marker analysis must be performed for those persons; requiring certain notices to be provided to the victims of the crimes allegedly committed by those persons; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person convicted of a crime and sentenced to death may petition a court to conduct postconviction genetic marker analysis to prove a credible claim of innocence if the person meets certain requirements. For example, the person must show that the evidence has not previously been submitted to such analysis or that the method of analysis requested and the additional analysis may resolve an issue not resolved by previous analysis. (NRS 176.0918)

Section 1 of this bill amends existing law to allow any person **who is** convicted of a **category A or B** felony **[,] and under a sentence of imprisonment,** regardless of whether he is under a sentence of death, to petition the court for postconviction genetic marker analysis after meeting certain other requirements. **This section provides that a petition must be made under penalty of perjury and must contain certain information. Further, this section provides for the court to determine whether to dismiss the petition, schedule a hearing or assign counsel to further review, supplement and present the petition to the court.** This section also

amends existing law to provide that genetic marker analysis may be performed on evidence previously submitted to analysis if: (1) the results of a previous analysis were inconclusive; (2) the evidence was not previously submitted to the type of analysis requested and the requested analysis may resolve an issue not resolved by the previous analysis; or (3) the requested analysis would provide results significantly more accurate and probative of the identity of the perpetrator. This section further requires the district attorney of the appropriate county **, under certain circumstances,** to notify the victims of the crime at issue in the petition of certain information related to the petition. (NRS 176.0918)

Section 3 of this bill provides that the new procedures set forth in the bill apply to persons who were convicted of an offense before, on or after the effective date of this bill.

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

Section 1. NRS 176.0918 is hereby amended to read as follows:

176.0918 1. A person convicted of a ~~[crime and under sentence of death]~~ ***category A or B felony who is under sentence of imprisonment for that conviction and*** who ***otherwise*** meets the requirements of this section may file a postconviction petition requesting a genetic marker analysis of evidence within the possession or custody of the State which may contain genetic marker information relating to the investigation or prosecution that resulted in the judgment of conviction **.** ~~[and sentence of death. The]~~ ***If the case involves a sentence of death, the*** petition must include, without limitation, the date scheduled for the execution, if it has been scheduled.

2. Such a petition must be filed with the clerk of the district court for the county in which the petitioner was convicted on a form prescribed by the Department of Corrections. A copy of the petition must be served by registered mail upon:

(a) The Attorney General; and

(b) The district attorney in the county in which the petitioner was convicted.

3. ***A petition filed pursuant to this section must be accompanied by a declaration under penalty of perjury attesting that the information contained in the petition does not contain any material misrepresentation of fact and that the petitioner has a good faith basis relying on particular facts for the request. The petition must include, without limitation:***

(a) Information identifying specific evidence either known or believed to be in the possession or custody of the State that can be subject to genetic marker analysis;

(b) The rationale for why a reasonable possibility exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through a genetic marker analysis of the evidence identified in paragraph (a);

(c) An identification of the type of genetic marker analysis the petitioner is requesting to be conducted on the evidence identified in paragraph (a);

(d) If applicable, the results of all prior genetic marker analysis performed on evidence in the trial which resulted in the petitioner's conviction; and

(e) A statement that the type of genetic marker analysis the petitioner is requesting was not available at the time of trial or, if it was available, that the failure to request genetic marker analysis before the petitioner was convicted was not a result of a strategic or tactical decision as part of the representation of the petitioner at the trial.

4. If a petition is filed pursuant to this section, the court ~~[shall]~~ ***may:***

(a) Dismiss the petition without a hearing if the court determines, based on the information contained in the petition, that the petitioner does not meet the requirements set forth in this section;

(b) After determining whether the petitioner is indigent pursuant to NRS 171.188 and whether counsel was appointed in the case which resulted in the conviction, appoint counsel for the limited purpose of reviewing, supplementing and presenting the petition to the court; or

(c) Schedule a hearing on the petition. If the court schedules a hearing on the petition, the court shall determine which person or agency has possession or custody of the evidence and shall immediately issue an order requiring, during the pendency of the proceeding, each person or agency in possession or custody of the evidence to:

~~[(a)]~~ ***(1)*** Preserve all evidence within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section;

~~[(b)]~~ ***(2)*** Within ~~[30]~~ ***90*** days, prepare an inventory of all evidence ***relevant to the claims in the petition*** within the possession or custody of the person or agency that may be subjected to genetic marker analysis pursuant to this section; and

~~[(c)]~~ ***(3)*** Within ~~[30]~~ ***90*** days, submit a copy of the inventory to the petitioner, the prosecuting attorney and the court.

~~[4.]~~ ***5.*** Within ~~[30]~~ ***90*** days after the inventory of all evidence is prepared pursuant to subsection ~~[3,]~~ ***4,*** the prosecuting attorney may file a written response to the petition with the court.

~~[5. The]~~

6. If the court ~~[shall hold]~~ ***holds*** a hearing on a petition filed pursuant to this section ~~[.~~

~~6.]~~ ***, the hearing must be presided over by the judge who conducted the trial that resulted in the conviction of the petitioner, unless that judge is unavailable. Any evidence presented at the hearing by affidavit must be served on the opposing party at least 15 days before the hearing.***

7. The court shall order a genetic marker analysis ***, after considering the information contained in the petition pursuant to subsection 3 and any other evidence,*** if the court finds that:

(a) A reasonable possibility exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through a genetic marker analysis of the evidence identified in the petition;

(b) The evidence to be analyzed exists; and

(c) ~~[~~The~~]~~ ***Except as otherwise provided in subsection ~~[7.]~~ 8. the*** evidence was not previously subjected to ~~[~~:

~~(1) A~~~~]~~ ***a*** genetic marker analysis **.** ~~[~~involving the petitioner; or

~~(2) The method of analysis requested in the petition, and the method of additional analysis may resolve an issue not resolved by a previous analysis.~~~~]~~

~~[~~*~~7.~~*~~]~~ ***8. If the evidence was previously subjected to a genetic marker analysis, the court shall order a genetic marker analysis pursuant to subsection ~~[6.]~~ 7 if the court finds that:***

(a) The result of the previous analysis was inconclusive;

(b) The evidence was not subjected to the type of analysis that is now requested and the requested analysis may resolve an issue not resolved by the previous analysis; or

(c) The requested analysis would provide results that are significantly more accurate and probative of the identity of the perpetrator than the previous analysis.

~~[~~*~~8.~~*~~]~~ ***9.*** If the court orders a genetic marker analysis pursuant to subsection ~~[~~*~~6.~~*~~]~~ ~~[~~,~~]~~ ~~[~~*~~or 7.~~*~~]~~ ***7 or 8,*** the court shall:

(a) Order the analysis to be conducted promptly under reasonable conditions designed to protect the interest of the State ***and the petitioner*** in the integrity of the evidence and the analysis process.

(b) Select a forensic laboratory to conduct or oversee the analysis. The forensic laboratory selected by the court must:

(1) Be operated by this State or one of its political subdivisions, when possible; and

(2) Satisfy the standards for quality assurance that are established for forensic laboratories by the Federal Bureau of Investigation.

(c) Order the forensic laboratory selected pursuant to paragraph (b) to perform a genetic marker analysis of evidence. The analysis to be performed and evidence to be analyzed must:

(1) Be specified in the order; and

(2) Include such analysis, testing and comparison of genetic marker information contained in the evidence and the genetic marker information of the petitioner as the court determines appropriate under the circumstances.

(d) Order the production of any reports that are prepared by a forensic laboratory in connection with the analysis and any data and notes upon which the report is based.

(e) Order the preservation of evidence used in a genetic marker analysis performed pursuant to this section for purposes of a subsequent proceeding or analysis, if any.

(f) Order the results of the genetic marker analysis performed pursuant to this section to be sent to the State Board of Parole Commissioners if the results of the genetic marker analysis are not favorable to the petitioner.

~~[8.]~~ ~~*[9.]*~~ ***10.*** If the results of a genetic marker analysis performed pursuant to this section are favorable to the petitioner:

(a) The petitioner may bring a motion for a new trial based on the ground of newly discovered evidence pursuant to NRS 176.515; and

(b) The restriction on the time for filing the motion set forth in subsection 3 of NRS 176.515 is not applicable.

~~[9.]~~ ~~*[10.]*~~ ***11.*** The court shall dismiss a petition filed pursuant to this section if:

(a) The requirements for ordering a genetic marker analysis pursuant to this section are not satisfied; or

(b) The results of a genetic marker analysis performed pursuant to this section are not favorable to the petitioner.

~~[10.]~~ ~~*[11.]*~~ ***12.*** For the purposes of a genetic marker analysis pursuant to this section, a person ~~[under sentence of death]~~ who files a petition pursuant to this section shall be deemed to consent to the:

(a) Submission of a biological specimen by him to determine his genetic marker information; and

(b) Release and use of genetic marker information concerning the petitioner.

~~[11.]~~ ~~*[12. The*~~

13. The petitioner shall pay the cost of a genetic marker analysis performed pursuant to this section, unless the petitioner is incarcerated at the time he files the petition, found to be indigent pursuant to NRS 171.188 and the results of the genetic marker analysis are favorable to the petitioner. If the petitioner is not required to pay the cost of the analysis pursuant to this subsection, the expense of an analysis ordered pursuant to this section is a charge against the Department of Corrections and must be paid upon approval by the Board of State Prison Commissioners as other claims against the State are paid.

~~[12.]~~ ~~*[13.]*~~ ***14.*** The remedy provided by this section is in addition to, is not a substitute for and is not exclusive of any other remedy, right of action or proceeding available to a person convicted of a crime **.** ~~[and under sentence of death.]~~

~~*[14.]*~~ ***15. If a petitioner files a petition pursuant to this section, the court schedules a hearing on the petition and a victim of the crime for which the petitioner was convicted has requested notice pursuant to NRS 178.5698, the district attorney in the county in which the petitioner was convicted shall provide to*** ~~*[any victim of the crime for which the petitioner was convicted]*~~ ***the victim notice of:***

(a) The fact that the petitioner filed a petition pursuant to this section;

(b) The time and place of ~~*[any]*~~ ***the hearing*** ~~*[that may be held]*~~ ***scheduled by the court as a result of the petition; and***

(c) The outcome of any hearing on the petition.

Sec. 2. NRS 176.0919 is hereby amended to read as follows:

176.0919 1. After a judge grants a petition requesting a genetic marker analysis pursuant to NRS 176.0918, if ***the case involves a sentence of death and*** a judge determines that the genetic marker analysis cannot be completed before the date of the execution of the petitioner, the judge shall stay the execution of the judgment of death pending the results of the analysis.

2. If ***the case involves a sentence of death and*** the results of an analysis ordered and conducted pursuant to NRS 176.0918 are not favorable to the petitioner:

(a) Except as otherwise provided in paragraph (b), the Director of the Department of Corrections shall, in due course, execute the judgment of death.

(b) If the judgment of death has been stayed pursuant to subsection 1, the judge shall cause a certified copy of his order staying the execution of the judgment and a certified copy of the report of genetic marker analysis that indicates results which are not favorable to the petitioner to be immediately forwarded by the clerk of the court to the district attorney. Upon receipt, the district attorney shall pursue the issuance of a new warrant of execution of the judgment of death in the manner provided in NRS 176.495.

Sec. 3. This act applies to a person who was convicted of an offense before, on or after October 1, 2009.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 290.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 533.

AN ACT relating to vehicles; revising provisions governing the applicability of the implied warranty of merchantability to the sale of a used vehicle by a used vehicle dealer; prohibiting a used vehicle dealer from excluding, modifying, negating or limiting the implied warranty of merchantability; providing remedies for a purchaser if a used vehicle does not conform with the implied warranty of merchantability; providing that a purchaser of a used vehicle may waive the implied warranty of merchantability under certain circumstances; requiring a contract for the sale of a used vehicle by a used vehicle dealer to contain certain statements; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 4 of this bill provides that in a contract for the sale of a used vehicle by a used vehicle dealer, the implied warranty of merchantability codified in NRS 104.2314 expires at midnight on the 15th day after delivery

of the used vehicle or upon the used vehicle being driven 500 miles, whichever occurs first. **Section 4** additionally prohibits a used vehicle dealer from excluding, modifying, negating or limiting the implied warranty of merchantability or limiting any right or remedy of the purchaser for failure of the used vehicle to conform with the implied warranty of merchantability. **Section 5** of this bill provides that a used vehicle conforms with the implied warranty of merchantability if the used vehicle functions substantially free of certain defects. **Section 5** additionally provides certain remedies to the purchaser if the used vehicle does not conform with the implied warranty of merchantability, including returning the used vehicle to the used vehicle dealer and receiving a refund of the full amount paid by the purchaser toward the purchase price of the used vehicle. **These remedies are in addition to any other remedies provided by existing law.**

Section 6 of this bill provides that a contract for the sale of a used vehicle by a used vehicle dealer must contain a statement providing that the used vehicle is fit for ordinary use for 15 days or 500 miles after delivery of the used vehicle to the purchaser, whichever occurs first. **Section 7** of this bill provides that a purchaser may waive the implied warranty of merchantability for a particular defect under certain circumstances. **Section 8** of this bill provides that if a used vehicle dealer violates certain provisions of this bill, the contract for the sale of a used vehicle is voidable by the purchaser. **Section 7.5 of this bill provides that the provisions of sections 2-8 of this bill do not apply to the sale of a used vehicle which is covered by an express warranty of a manufacturer.**

Section 15.5 of this bill provides that the forms for the application for credit and contracts to be used in the sale of a used vehicle prescribed by the Commissioner of Financial Institutions must contain statements substantially similar to the statements described in sections 6 and 7 of this bill. (NRS 97.299)

Existing law provides various protections for a person who purchases a used vehicle which has been driven 75,000 miles or more. (NRS 482.36661-482.36667) **Sections 10-14** of this bill make those provisions applicable to any used vehicle sold by a used vehicle dealer, regardless of the mileage of the used vehicle.

Section 16 of this bill repeals certain provisions governing express written warranties provided by a used vehicle dealer **~~[.]~~ and the imposition of administrative fines.** (NRS 482.36662, 482.36663 **~~[)]~~ , 482.36666)**

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

Section 1. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 8, inclusive, of this act.

Sec. 2. ***"Implied warranty of merchantability" means the implied warranty described in NRS 104.2314.***

Sec. 3. ***To the extent of any conflict with the provisions of chapter 104 of NRS, the provisions of NRS 482.36655 to 482.36667, inclusive, and sections 2 to 8, inclusive, of this act control with respect to the sale in this State of a used vehicle by a used vehicle dealer.***

Sec. 4. ***1. The implied warranty of merchantability in a contract for the sale of a used vehicle by a used vehicle dealer expires:***

(a) At midnight on the 15th calendar day after the date of delivery of the used vehicle to the purchaser; or

(b) Upon the used vehicle being driven 500 miles after its delivery to the purchaser,

➥ whichever occurs earlier.

2. A used vehicle dealer shall not exclude, modify, negate or limit the implied warranty of merchantability with respect to the sale of a used vehicle or limit any right or remedy of the purchaser for failure of the used vehicle to conform with the implied warranty of merchantability.

3. For the purposes of this section, the computation of:

(a) Days following the date of delivery of the used vehicle to the purchaser must not include any day on which the used vehicle fails to conform with the implied warranty of merchantability.

(b) Miles driven must not include miles driven to obtain or in connection with the repair, service or diagnostic testing of a used vehicle which fails to conform with the implied warranty of merchantability.

Sec. 5. ***1. A used vehicle that is sold by a used vehicle dealer conforms with the implied warranty of merchantability if the used vehicle functions substantially free of any defect which:***

(a) Significantly limits the use of the used vehicle on any public highway; and

(b) Is not the result of any damage that occurs after the sale of the used vehicle, including, without limitation, damage resulting from off-road use, racing, towing, abuse, misuse, neglect, failure to perform ordinary maintenance or failure to maintain adequate levels of oil, engine coolant or other required fluids or lubricants.

2. If, during the effective period of the warranty of merchantability, the purchaser of a used vehicle discovers a defect that constitutes the failure of the used vehicle to conform with the implied warranty of merchantability, the purchaser shall notify the used vehicle dealer as soon as practicable, but not later than 30 days after the purchaser discovers the defect.

3. Before a purchaser may pursue the remedy prescribed in subsection 4:

(a) The purchaser must give the notice required by subsection 2;

(b) The used vehicle dealer must have a reasonable opportunity to repair the used vehicle; and

(c) The purchaser must pay one-half of the cost of the first two repairs that are necessary to bring the used vehicle into conformity with the

implied warranty of merchantability, but not more than $25 for each repair.

4. If, after a reasonable opportunity, the used vehicle dealer is unable to repair the used vehicle to conform with the implied warranty of merchantability, the purchaser may elect to return the used vehicle to the used vehicle dealer who shall:

(a) Accept the return of the used vehicle; and

(b) Not later than 5 business days after the return of the vehicle:

(1) Refund to the purchaser the full amount paid by the purchaser toward the purchase price of the used vehicle; and

(2) Satisfy any security interest taken in the used vehicle.

5. A used vehicle dealer is not liable under this section to the purchaser for any amount other than the amount described in subsection 4, unless the used vehicle dealer had actual knowledge of or should have known of a defect in the used vehicle as a result of the circumstances in which the used vehicle was acquired or sold and did not disclose the defect to the purchaser.

6. The remedy provided in this section is not exclusive and is intended to supplement existing law.

Sec. 6. ***1. A contract for the sale of a used vehicle by a used vehicle dealer must contain the following conspicuous statement printed in boldface type and not less than 10-point font:***

Nevada law requires that this used vehicle be fit for the ordinary purposes for which the used vehicle is used for 15 days or 500 miles after delivery of the used vehicle to you (the purchaser), whichever occurs earlier, except with regard to particular defects disclosed on the first page of this contract. You (the purchaser) will not have to pay more than $25 for each of the first two repairs if this warranty is violated.

2. The statement required by subsection 1 does not create an express warranty in a contract for the sale of a used vehicle by a used vehicle dealer.

Sec. 7. ***A purchaser may waive the implied warranty of merchantability in a contract for the sale of a used vehicle only:***

1. For a particular defect in the used vehicle; and

2. If the following conditions are satisfied:

(a) The used vehicle dealer fully and accurately discloses the particular defect to the purchaser;

(b) The purchaser agrees to purchase the used vehicle after the disclosure of the particular defect is made; and

(c) The purchaser, before taking delivery of the used vehicle, signs and dates the following conspicuous statement which must be printed on the first page of the contract in boldface type and not less than 10-point font:

Attention purchaser: Sign here only if the used vehicle dealer has disclosed to you that this used vehicle has the following particular defects and you agree to purchase the used vehicle after this disclosure:

1._____

2._____

3._____.

Sec. 7.5. ***The provisions of sections 2 to 8, inclusive, of this act do not apply to the sale by a used vehicle dealer of a used vehicle which is covered by an express warranty of a manufacturer.***

Sec. 8. ***If a used vehicle dealer violates any provision of sections 2 to 8, inclusive, of this act, the contract for the sale of a used vehicle is voidable by the purchaser.***

Sec. 9. NRS 482.36655 is hereby amended to read as follows:

482.36655 As used in NRS 482.36655 to 482.36667, inclusive, ***and sections 2 to 8, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 482.3666 and 482.366605 ***and section 2 of this act*** have the meanings ascribed to them in those sections.

Sec. 10. NRS 482.36661 is hereby amended to read as follows:

482.36661 Before a used vehicle dealer may sell to a retail customer a used vehicle **,** ~~**[**the odometer of which registers 75,000 miles or more,**]**~~ the used vehicle dealer must conduct a reasonably thorough inspection of the soundness and safety of the vehicle's engine and drivetrain and disclose in writing any defects in the engine or drivetrain known to him or which he reasonably should have known after he conducts the inspection.

Sec. 11. NRS 482.36664 is hereby amended to read as follows:

482.36664 1. A retail customer who purchases a used vehicle ~~**[**the odometer of which registers 75,000 miles or more**]**~~ may submit to the Department a written complaint regarding the used vehicle dealer ~~**[.]**~~ ***only after making a good faith attempt to resolve the complaint with the used vehicle dealer.*** The Department shall, within 10 days after it receives a complaint pursuant to this section, provide a copy of the complaint to the used vehicle dealer who is the subject of the complaint.

2. A complaint submitted ***by the retail customer*** pursuant to subsection 1 must include:

(a) A clear and concise statement of the complaint and the facts relating to the complaint;

(b) Copies of any documents relating to the complaint; and

(c) A statement of the manner in which the retail customer wishes to have the complaint resolved.

3. Upon receipt of a complaint pursuant to this section, the Department shall investigate the complaint and determine whether the used vehicle dealer who is the subject of the complaint has violated the provisions of NRS 482.36655 to 482.36667, inclusive, ***and sections 2 to 8, inclusive, of this act*** or the regulations adopted by the Department pursuant thereto.

4. If the Department determines that a used vehicle dealer has violated the provisions of NRS 482.36655 to 482.36667, inclusive, ***and sections 2 to 8, inclusive, of this act*** or the regulations adopted by the Department pursuant thereto, the Department shall notify the used vehicle dealer of that

determination and recommend to the dealer the actions that he may take to resolve the complaint.

5. A retail customer or used vehicle dealer who is aggrieved by the decision of the Department may appeal the decision to the Director.

Sec. 12. NRS 482.36665 is hereby amended to read as follows:

482.36665 The Department shall maintain a record of the complaints submitted to the Department pursuant to NRS 482.36664. The record must include a statement of whether the dealer was found to have violated the provisions of NRS 482.36655 to 482.36667, inclusive, ***and sections 2 to 8, inclusive, of this act*** or the regulations adopted pursuant thereto, and if so, whether the used vehicle dealer resolved the complaint in the manner recommended by the Department or in any other manner acceptable to the Department and the retail customer who filed the complaint.

Sec. 13. ~~[NRS 482.36666 is hereby amended to read as follows:~~

~~482.36666 1. If the Department determines from the record maintained pursuant to NRS 482.36665 that on more than three occasions a used vehicle dealer has:~~

~~(a) Been found to have violated the provisions of NRS 482.36655 to 482.36667, inclusive, *and sections 2 to 8, inclusive, of this act* or the regulations adopted pursuant thereto; and~~

~~(b) Failed to resolve those complaints in the manner recommended by the Department pursuant to NRS 482.36664 or in any other manner acceptable to the Department and the retail customer who filed the complaint,~~

~~the Department may impose an administrative fine, not to exceed $2,500, for each additional violation of the provisions of NRS 482.36655 to 482.36667, inclusive .] , and sections 2 to 8, inclusive of this act.~~ ~~The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.~~

~~2. All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer to the credit of the Account for Regulation of Used Vehicle Dealers, which is hereby created in the State Highway Fund. Money in the Account may be used only for the administration of NRS 481.048 and NRS 482.36655 to 482.36667, inclusive .] , and sections 2 to 8, inclusive, of this act.~~

~~3. In addition to any other remedy provided by law, the Department may compel compliance with NRS 482.36655 to 482.36667, inclusive, *and sections 2 to 8, inclusive, of this act,* and any regulation adopted pursuant thereto, by injunction or other appropriate remedy, and the Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.~~ **(Deleted by amendment.)**

Sec. 14. NRS 482.36667 is hereby amended to read as follows:

482.36667 The Department may adopt regulations to carry out the provisions of NRS 482.36655 to 482.36667, inclusive ~~.]~~ ***, and sections 2 to 8, inclusive, of this act.***

Sec. 15. NRS 41.600 is hereby amended to read as follows:

41.600 1. An action may be brought by any person who is a victim of consumer fraud.

2. As used in this section, "consumer fraud" means:

(a) An unlawful act as defined in NRS 119.330;

(b) An unlawful act as defined in NRS 205.2747;

(c) An act prohibited by NRS 482.36655 to 482.36667, inclusive ~~[.]~~ ***, and sections 2 to 8, inclusive, of this act;***

(d) An act prohibited by NRS 482.351; or

(e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925, inclusive.

3. If the claimant is the prevailing party, the court shall award him:

(a) Any damages that he has sustained; and

(b) His costs in the action and reasonable attorney's fees.

4. Any action brought pursuant to this section is not an action upon any contract underlying the original transaction.

Sec. 15.5. **NRS 97.299 is hereby amended to read as follows:**

97.299 1. The Commissioner of Financial Institutions shall prescribe, by regulation, forms for the application for credit and contracts to be used in the sale of vehicles if:

(a) The sale involves the taking of a security interest to secure all or a part of the purchase price of the vehicle;

(b) The application for credit is made to or through the seller of the vehicle;

(c) The seller is a dealer; and

(d) The sale is not a commercial transaction.

2. The forms prescribed pursuant to subsection 1 must meet the requirements of NRS 97.165, must be accepted and acted upon by any lender to whom the application for credit is made and, in addition to the information required in NRS 97.185 and required to be disclosed in such a transaction by federal law, must:

(a) Identify and itemize the items embodied in the cash sale price, including the amount charged for a contract to service the vehicle after it is purchased.

(b) In specifying the amount of the buyer's down payment, identify the amounts paid in money and allowed for property given in trade and the amount of any manufacturer's rebate applied to the down payment.

(c) Contain a description of any property given in trade as part of the down payment.

(d) Contain a description of the method for calculating the unearned portion of the finance charge upon prepayment in full of the unpaid total of payments as prescribed in NRS 97.225.

(e) Include the following notice in at least 10-point bold type:

NOTICE TO BUYER

Do not sign this agreement before you read it or if it contains any blank spaces. You are entitled to a completed copy of this agreement. If you pay the amount due before the scheduled date of maturity of the indebtedness and you are not in default in the terms of the contract for more than 2 months, you are entitled to a refund of the unearned portion of the finance charge. If you fail to perform your obligations under this agreement, the vehicle may be repossessed and you may be liable for the unpaid indebtedness evidenced by this agreement.

3. The Commissioner shall arrange for or otherwise cause the translation into Spanish of the forms prescribed pursuant to subsection 1.

4. If a change in state or federal law requires the Commissioner to amend the forms prescribed pursuant to subsection 1, the Commissioner need not comply with the provisions of chapter 233B of NRS when making those amendments.

5. ***The form for the application for credit and contract to be used in the sale of a used vehicle prescribed by the Commissioner pursuant to subsection 1 must contain statements that are substantially similar to the statements described in subsection 1 of section 6 of this act and paragraph (c) of subsection 2 of section 7 of this act.***

6. As used in this section:

(a) "Commercial transaction" means any sale of a vehicle to a buyer who purchases the vehicle solely or primarily for commercial use or resale.

(b) "Dealer" has the meaning ascribed to it in NRS 482.020.

(c) "Used vehicle" has the meaning ascribed to it in NRS 482.132.

Sec. 16. NRS 482.36662**,** ~~[and]~~ 482.36663 **and 482.36666** are hereby repealed.

Sec. 17. This act becomes effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009, for all other purposes.

TEXT OF REPEALED SECTIONS

482.36662 Written warranty required under certain circumstances; contents of warranty.

1. A used vehicle dealer who sells to a retail customer a used vehicle the odometer of which registers 75,000 miles or more shall provide to that retail customer an express written warranty which complies with the requirements set forth in subsection 2 and is valid for the period set forth in the schedule of warranties created pursuant to NRS 482.36663, if the used vehicle dealer is the subject of more than three substantiated complaints filed against him with the Department of Motor Vehicles during a 12-month period.

2. An express written warranty required pursuant to subsection 1 must contain a statement that, in the event the operation of the used vehicle becomes impaired as a result of a defect in a component or system of the

vehicle's engine or drivetrain, the used vehicle dealer shall, with reasonable promptness, correct the defect or cause the defect to be corrected.

482.36663 Duration of warranty. If an express written warranty is provided to a retail customer for a used vehicle pursuant to NRS 482.36662, the duration of the warranty must be determined pursuant to this section. If, on the date the vehicle was purchased from the used vehicle dealer, the odometer in the used vehicle registered:

1. At least 75,000 but less than 80,001 miles, the warranty is valid for a period of 30 days therefrom or until the odometer in the vehicle registers 1,000 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.

2. At least 80,001 but less than 85,001 miles, the warranty is valid for a period of 20 days therefrom or until the odometer in the vehicle registers 600 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.

3. At least 85,001 but less than 90,001 miles, the warranty is valid for a period of 10 days therefrom or until the odometer in the vehicle registers 300 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.

4. At least 90,001 but less than 100,001 miles, the warranty is valid for a period of 5 days therefrom or until the odometer in the vehicle registers 150 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.

5. At least 100,001 miles, the warranty is valid for a period of 2 days therefrom or until the odometer in the vehicle registers 100 miles more than on the date the vehicle was purchased from the used vehicle dealer, whichever occurs earlier.

➥ The period for which a warranty is valid pursuant to this section must be tolled during any period in which the dealer has possession of the vehicle or the operation of the vehicle is impaired and the vehicle is inoperable due to a defect in the vehicle's engine or drivetrain.

482.36666 Administrative fines; opportunity for hearing; deposit of fines; injunctions and other remedies.

1. If the Department determines from the record maintained pursuant to NRS 482.36665 that on more than three occasions a used vehicle dealer has:

(a) Been found to have violated the provisions of NRS 482.36655 to 482.36667, inclusive, or the regulations adopted pursuant thereto; and

(b) Failed to resolve those complaints in the manner recommended by the Department pursuant to NRS 482.36664 or in any other manner acceptable to the Department and the retail customer who filed the complaint,

➥ the Department may impose an administrative fine, not to exceed $2,500, for each additional violation of the provisions of NRS 482.36655 to 482.36667, inclusive. The Department shall afford to any person so

fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer to the credit of the Account for Regulation of Used Vehicle Dealers, which is hereby created in the State Highway Fund. Money in the Account may be used only for the administration of NRS 481.048 and NRS 482.36655 to 482.36667, inclusive.

3. In addition to any other remedy provided by law, the Department may compel compliance with NRS 482.36655 to 482.36667, inclusive, and any regulation adopted pursuant thereto, by injunction or other appropriate remedy, and the Department may institute and maintain in the name of the State of Nevada any such enforcement proceedings.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 325.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 364.

AN ACT relating to sex offenders; ~~[establishing certain restrictions regarding residency for]~~ **prohibiting** persons who are convicted of certain sexual offenses ~~[.]~~ **from having contact with a victim or witness;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that if a person is convicted of ~~[certain offenses against a child under the age of 14 years, the person is a Tier III sex offender and the person is on probation, lifetime supervision or parole, the person is subject to certain restrictions concerning the place of his residence, such as not residing within 1,000 feet of any place that is designed primarily for use by or for children. (NRS 176A.410, 213.1243, 213.1255) This bill provides that such a person may reside at a location only if the residence is not located within 1,000 feet of the property line of the property on which a victim of the person resides. This bill also clarifies that: (1) the previously enacted restrictions on the residency of such a person apply only to a person who establishes a residence on or after October 1, 2007, which is the date on which those restrictions became law; and (2) the additional restrictions on residency of such a person contained in this bill apply only to a person who establishes a residence on or after October 1, 2009, which is the date this bill becomes effective.]~~ **certain sexual offenses and the court grants probation or suspends the sentence of the defendant, or if such a person is released on parole, that person must not have any contact with the victim or a witness who testified against him unless approved by a parole and**

probation officer. (NRS 176A.410, 213.1245) Sections 1 and 2.5 of this bill provide that such a person may not have any such contact unless approved in writing by the Chief Parole and Probation Officer or his designee. Section 2 of this bill similarly prohibits a sex offender under lifetime supervision from having any contact with a victim or a witness who testified against him unless approved in writing by the Chief. (NRS 213.1243)

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

Section 1. NRS 176A.410 is hereby amended to read as follows:

176A.410 1. Except as otherwise provided in subsection 6, if a defendant is convicted of a sexual offense and the court grants probation or suspends the sentence, the court shall, in addition to any other condition ordered pursuant to NRS 176A.400, order as a condition of probation or suspension of sentence that the defendant:

(a) Submit to a search and seizure of his person, residence or vehicle or any property under his control, at any time of the day or night, without a warrant, by any parole and probation officer or any peace officer, for the purpose of determining whether the defendant has violated any condition of probation or suspension of sentence or committed any crime.

(b) Reside at a location only if:

(1) The residence has been approved by the parole and probation officer assigned to the defendant.

(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(3) The defendant keeps the parole and probation officer assigned to the defendant informed of his current address.

(c) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the defendant and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer.

(d) Abide by any curfew imposed by the parole and probation officer assigned to the defendant.

(e) Participate in and complete a program of professional counseling approved by the Division.

(f) Submit to periodic tests, as requested by the parole and probation officer assigned to the defendant, to determine whether the defendant is using a controlled substance.

(g) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the defendant.

(h) Abstain from consuming, possessing or having under his control any alcohol.

(i) Not have contact or communicate with a victim of the sexual offense or a witness who testified against the defendant or solicit another person to engage in such contact or communication on behalf of the defendant, unless approved by the ~~[parole and probation officer assigned to the defendant,]~~ ***Chief Parole and Probation Officer or his designee*** and a written agreement is entered into and signed in the manner set forth in subsection 5.

(j) Not use aliases or fictitious names.

(k) Not obtain a post office box unless the defendant receives permission from the parole and probation officer assigned to the defendant.

(l) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of a sexual offense is present and permission has been obtained from the parole and probation officer assigned to the defendant in advance of each such contact.

(m) Unless approved by the parole and probation officer assigned to the defendant and by a psychiatrist, psychologist or counselor treating the defendant, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this paragraph apply only to a defendant who is a Tier III offender.

(n) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication.

(o) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the defendant.

(p) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the defendant.

(q) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the defendant.

(r) Inform the parole and probation officer assigned to the defendant if the defendant expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. Except as otherwise provided in subsection 6, if a defendant is convicted of an offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the defendant is a Tier III offender and the court grants probation or suspends the sentence of the defendant, the court

shall, in addition to any other condition ordered pursuant to subsection 1, order as a condition of probation or suspension of sentence that the defendant:

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. ~~*[The provisions of this paragraph apply to a defendant who establishes a residence at a location on or after October 1, 2007.]*~~

(b) ~~*[Reside at a location only if the residence is not located within 1,000 feet of the property line of the property on which a victim of the defendant resides. The provisions of this paragraph apply to a defendant who establishes a residence at a location on or after October 1, 2009.*~~

~~*(c)]*~~ As deemed appropriate by the Chief Parole and Probation Officer, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(c) ~~*[(d)]*~~ Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

3. A defendant placed under the system of active electronic monitoring pursuant to subsection 2 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

4. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a defendant pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

5. A written agreement entered into pursuant to paragraph (i) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

(b) The defendant;

(c) The parole and probation officer assigned to the defendant;

(d) The psychiatrist, psychologist or counselor treating the defendant, victim or witness, if any; ~~[and]~~

(e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child ~~[.]~~ ***; and***

(f) The Chief Parole and Probation Officer or his designee.

6. The court is not required to impose a condition of probation or suspension of sentence listed in subsections 1 and 2 if the court finds that extraordinary circumstances are present and the court enters those extraordinary circumstances in the record.

7. As used in this section, "sexual offense" has the meaning ascribed to it in NRS 179D.097.

Sec. 2. NRS 213.1243 is hereby amended to read as follows:

213.1243 1. The Board shall establish by regulation a program of lifetime supervision of sex offenders to commence after any period of probation or any term of imprisonment and any period of release on parole. The program must provide for the lifetime supervision of sex offenders by parole and probation officers.

2. Lifetime supervision shall be deemed a form of parole for:

(a) The limited purposes of the applicability of the provisions of NRS 213.1076, subsection 9 of NRS 213.1095, NRS 213.1096 and subsection 2 of NRS 213.110; and

(b) The purposes of the Interstate Compact for Adult Offender Supervision ratified, enacted and entered into by the State of Nevada pursuant to NRS 213.215.

3. Except as otherwise provided in subsection 9, the Board shall require as a condition of lifetime supervision that the sex offender reside at a location only if:

(a) The residence has been approved by the parole and probation officer assigned to the person.

(b) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(c) The person keeps the parole and probation officer informed of his current address.

4. Except as otherwise provided in subsection 9, the Board shall require as a condition of lifetime supervision that the sex offender, unless approved by the parole and probation officer assigned to the sex offender and by a psychiatrist, psychologist or counselor treating the sex offender, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this subsection apply only to a sex offender who is a Tier 3 ~~[III]~~ offender.

5. Except as otherwise provided in subsection 9, if a sex offender is convicted of a sexual offense listed in subsection 6 of NRS 213.1255 against a child under the age of 14 years, the sex offender is a Tier 3 ~~[III]~~ offender and the sex offender is sentenced to lifetime supervision, the Board shall require as a condition of lifetime supervision that the sex offender:

(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. ~~[The provisions of this paragraph apply to a sex offender who establishes a residence at a location on or after October 1, 2007.]~~

(b) ~~[Reside at a location only if the residence is not located within 1,000 feet of the property line of the property on which a victim of the sex offender resides. The provisions of this paragraph apply to a sex offender who establishes a residence at a location on or after October 1, 2009.~~

~~(c)]~~ As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.

(c) ~~[(d)]~~ Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.

6. A sex offender placed under the system of active electronic monitoring pursuant to subsection 4 shall:

(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.

(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.

(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.

7. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a sex offender pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.

8. Except as otherwise provided in subsection 7, a sex offender who commits a violation of a condition imposed on him pursuant to the program of lifetime supervision is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, and may be further punished by a fine of not more than $5,000.

9. The Board is not required to impose a condition pursuant to the program of lifetime supervision listed in subsections 3, 4 and 5 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

10. ***The Board shall require as a condition of lifetime supervision that the sex offender not have contact or communicate with a victim of the sexual offense or a witness who testified against the sex offender or solicit another person to engage in such contact or communication on behalf of the sex offender, unless approved by the Chief or his designee and a written agreement is entered into and signed.***

11. If a court issues a warrant for arrest for a violation of this section, the court shall cause to be transmitted, in the manner prescribed by the Central Repository for Nevada Records of Criminal History, notice of the issuance of the warrant for arrest in a manner which ensures that such notice is received by the Central Repository within 3 business days.

~~[11.]~~ ***12.*** For the purposes of prosecution of a violation by a sex offender of a condition imposed upon him pursuant to the program of lifetime supervision, the violation shall be deemed to have occurred in, and may only be prosecuted in, the county in which the court that imposed the sentence of lifetime supervision pursuant to NRS 176.0931 is located, regardless of whether the acts or conduct constituting the violation took place, in whole or in part, within or outside that county or within or outside this State.

Sec. 2.5. **NRS 213.1245 is hereby amended to read as follows:**

213.1245 1. Except as otherwise provided in subsection 3, if the Board releases on parole a prisoner convicted of an offense listed in NRS 179D.097, the Board shall, in addition to any other condition of parole, require as a condition of parole that the parolee:

(a) Reside at a location only if:

(1) The residence has been approved by the parole and probation officer assigned to the parolee.

(2) If the residence is a facility that houses more than three persons who have been released from prison, the facility is a facility for transitional living for released offenders that is licensed pursuant to chapter 449 of NRS.

(3) The parolee keeps the parole and probation officer informed of his current address.

(b) Accept a position of employment or a position as a volunteer only if it has been approved by the parole and probation officer assigned to the parolee and keep the parole and probation officer informed of the location of his position of employment or position as a volunteer.

(c) Abide by any curfew imposed by the parole and probation officer assigned to the parolee.

(d) Participate in and complete a program of professional counseling approved by the Division.

(e) Submit to periodic tests, as requested by the parole and probation officer assigned to the parolee, to determine whether the parolee is using a controlled substance.

(f) Submit to periodic polygraph examinations, as requested by the parole and probation officer assigned to the parolee.

(g) Abstain from consuming, possessing or having under his control any alcohol.

(h) Not have contact or communicate with a victim of the offense or a witness who testified against the parolee or solicit another person to engage in such contact or communication on behalf of the parolee, unless approved by the ~~[parole and probation officer assigned to the parolee,]~~ ***Chief or his designee*** and a written agreement is entered into and signed in the manner set forth in subsection 2.

(i) Not use aliases or fictitious names.

(j) Not obtain a post office box unless the parolee receives permission from the parole and probation officer assigned to the parolee.

(k) Not have contact with a person less than 18 years of age in a secluded environment unless another adult who has never been convicted of an offense listed in NRS 179D.097 is present and permission has been obtained from the parole and probation officer assigned to the parolee in advance of each such contact.

(l) Unless approved by the parole and probation officer assigned to the parolee and by a psychiatrist, psychologist or counselor treating the parolee, if any, not knowingly be within 500 feet of any place, or if the place is a structure, within 500 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. The provisions of this paragraph apply only to a parolee who is a Tier 3 offender.

(m) Comply with any protocol concerning the use of prescription medication prescribed by a treating physician, including, without limitation, any protocol concerning the use of psychotropic medication.

(n) Not possess any sexually explicit material that is deemed inappropriate by the parole and probation officer assigned to the parolee.

(o) Not patronize a business which offers a sexually related form of entertainment and which is deemed inappropriate by the parole and probation officer assigned to the parolee.

(p) Not possess any electronic device capable of accessing the Internet and not access the Internet through any such device or any other means, unless possession of such a device or such access is approved by the parole and probation officer assigned to the parolee.

(q) Inform the parole and probation officer assigned to the parolee if the parolee expects to be or becomes enrolled as a student at an institution of higher education or changes the date of commencement or termination of his

enrollment at an institution of higher education. As used in this paragraph, "institution of higher education" has the meaning ascribed to it in NRS 179D.045.

2. A written agreement entered into pursuant to paragraph (h) of subsection 1 must state that the contact or communication is in the best interest of the victim or witness, and specify the type of contact or communication authorized. The written agreement must be signed and agreed to by:

(a) The victim or the witness;

(b) The parolee;

(c) The parole and probation officer assigned to the parolee;

(d) The psychiatrist, psychologist or counselor treating the parolee, victim or witness, if any; ~~[and]~~

(e) If the victim or witness is a child under 18 years of age, each parent, guardian or custodian of the child ~~[.]~~ ***; and***

(f) The Chief or his designee.

3. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.

Sec. 3. ~~[NRS 213.1255 is hereby amended to read as follows:~~

~~213.1255 1. Except as otherwise provided in subsection 4, in addition to any conditions of parole required to be imposed pursuant to NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 6 against a child under the age of 14 years and who is a Tier 3 *[III]* offender, the Board shall require that the parolee:~~

~~(a) Reside at a location only if the residence is not located within 1,000 feet of any place, or if the place is a structure, within 1,000 feet of the actual structure, that is designed primarily for use by or for children, including, without limitation, a public or private school, a school bus stop, a center or facility that provides day care services, a video arcade, an amusement park, a playground, a park, an athletic field or a facility for youth sports, or a motion picture theater. *[The provisions of this paragraph apply to a parolee who establishes a residence at a location on or after October 1, 2007.]*~~

~~(b) *[Reside at a location only if the residence is not located within 1,000 feet of the property line of the property on which a victim of the parolee resides. The provisions of this paragraph apply to a parolee who establishes a residence at a location on or after October 1, 2009.*~~

~~*(c)]* As deemed appropriate by the Chief, be placed under a system of active electronic monitoring that is capable of identifying his location and producing, upon request, reports or records of his presence near or within a crime scene or prohibited area or his departure from a specified geographic location.~~

~~(c) *[(d)]* Pay any costs associated with his participation under the system of active electronic monitoring, to the extent of his ability to pay.~~

~~2. A parolee placed under the system of active electronic monitoring pursuant to subsection 1 shall:~~

~~(a) Follow the instructions provided by the Division to maintain the electronic monitoring device in working order.~~

~~(b) Report any incidental damage or defacement of the electronic monitoring device to the Division within 2 hours after the occurrence of the damage or defacement.~~

~~(c) Abide by any other conditions set forth by the Division with regard to his participation under the system of active electronic monitoring.~~

~~3. Except as otherwise provided in this subsection, a person who intentionally removes or disables or attempts to remove or disable an electronic monitoring device placed on a parolee pursuant to this section is guilty of a gross misdemeanor. The provisions of this subsection do not prohibit a person authorized by the Division from performing maintenance or repairs to an electronic monitoring device.~~

~~4. The Board is not required to impose a condition of parole listed in subsection 1 if the Board finds that extraordinary circumstances are present and the Board states those extraordinary circumstances in writing.~~

~~5. In addition to any conditions of parole required to be imposed pursuant to subsection 1 and NRS 213.1245, as a condition of releasing on parole a prisoner who was convicted of committing an offense listed in subsection 6 against a child under the age of 14 years, the Board shall, when appropriate:~~

~~(a) Require the parolee to participate in psychological counseling.~~

~~(b) Prohibit the parolee from being alone with a child unless another adult who has never been convicted of a sexual offense is present.~~

~~6. The provisions of subsections 1 and 5 apply to a prisoner who was convicted of:~~

~~(a) Sexual assault pursuant to paragraph (c) of subsection 3 of NRS 200.366;~~

~~(b) Abuse or neglect of a child pursuant to subparagraph (1) of paragraph (a) of subsection 1 or subparagraph (1) of paragraph (a) of subsection 2 of NRS 200.508;~~

~~(c) An offense punishable pursuant to subsection 2 of NRS 200.750;~~

~~(d) Solicitation of a minor to engage in acts constituting the infamous crime against nature pursuant to subparagraph (1) of paragraph (a) of subsection 1 of NRS 201.195;~~

~~(e) Lewdness with a child pursuant to NRS 201.230;~~

~~(f) Luring a child or a person with mental illness pursuant to NRS 201.560, if punished as a felony; or~~

~~(g) Any combination of the crimes listed in paragraphs (a) to (f), inclusive.~~ **(Deleted by amendment.)**

Sec. 4. The amendatory provisions of ~~1.~~

~~1. Section 1 of this act apply to a person who is granted probation or a suspension of sentence before, on or after October 1, 2009.~~

~~2. Section 2 of this act apply to a person who is placed under a program of lifetime supervision before, on or after October 1, 2009.~~

~~3. Section 3 of~~**]** this act apply to a person who is **[**~~released on parole before,~~**]** **convicted** on or after October 1, 2009.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 350.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 350.

AN ACT relating to common-interest communities; revising provisions relating to **[**~~amendments to the declaration of a common-interest community, the terms of office and actions of members of the executive board of an association,~~**]** **costs of collection and** the payment of fines and assessments, the rights of a unit's owner with respect to meetings and the **[**~~review of certain documents, the foreclosure of a lien upon a unit and the sale of a unit;~~**]** **budgets for the daily operation of a common-interest community; establishing certain standards for management agreements; establishing the duties, responsibilities and standards of practice for community managers;** making various other changes relating to common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section **[**~~1~~**]** **1.5** of this bill **[**~~increases the percentage of units' owners required to approve an amendment to the declaration of a common-interest community from a majority of units' owners to 85 percent of units' owners. (NRS 116.2117)~~**]** **authorizes an association to charge a reasonable fee for costs associated with collecting any past due obligation.** **Section 3** of this bill provides that in addition to complying with the business-judgment rule, officers and members of the executive board of an association are required to act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association. (NRS 116.3103)

Existing law authorizes an executive board to impose fines for certain violations of the governing documents and to assess interest on any unpaid fines at a rate established by the association, not to exceed the legal rate per annum. (NRS 116.31031) **Section 4** of this bill eliminates the authority to charge interest on any past due fines. **[**~~Existing law also provides that any past due assessment for common expenses bears interest at a rate not to exceed 18 percent per year. (NRS 116.3115)~~**]** **Section 9** of this bill provides that the association may **[**~~not~~**]** charge **[**~~more than: (1) five percent simple interest per year~~**]** **the prime rate plus 2 percent** on a past due assessment, beginning when the assessment is 60 days past due**.** **[**~~; or (2) three percent simple interest per year on a past due special assessment, beginning when the special assessment is 90 days past due.~~

~~Existing law provides that: (1) the term of office of a member of the executive board may not exceed 2 years, except for members who are appointed by the declarant; and (2) unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board. (NRS 116.31034) Section 5 of this bill provides that: (1) the term of office of a member of the executive board may not exceed 2 years under any circumstances; and (2) if the common-interest community consists of more than 50 units, no person may serve as a member of the executive board for more than two consecutive terms and a period of at least 6 years must elapse before a person who formerly served as a member of the executive board may serve as a member of the executive board again.~~**]**

Sections 6-8 of this bill provide that: (1) a unit's owner may receive, free of charge, a copy **or summary** of the minutes of a meeting of the **[**~~association~~**]** **units' owners** or executive board in electronic **[**~~or paper format;~~**]** **format at no cost to the unit's owner or, if the association is unable to provide a copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page;** (2) **at each meeting of the units' owners or executive board,** a unit's owner must be allowed to speak **for a minimum of 2 minutes at the beginning of the meeting and** for a minimum of **[**~~5~~**]** **2** minutes on each agenda item **at the time the agenda item is being addressed;** **[**~~at a meeting of the association or the executive board;~~**]** and (3) **[**~~the written remarks of a unit's owner must be included in the minutes of such meetings and read into the record under certain circumstances.~~**]** **a meeting of the executive board must be held at a time other than during normal business hours at least twice per year.** (NRS 116.3108, 116.31083, 116.31085)

[~~Sections 10 and 12 of this bill provide that a unit's owner is entitled to receive certain documents regarding the association and that there must not be any charges for reviewing certain books, records and other papers of the association. (NRS 116.31151, 116.31175)~~

~~Existing law provides that any penalties, fees, charges, late charges, fines and interest are assessments which may become a lien upon a unit, and that lien may then be foreclosed. (NRS 116.3116-116.31168) Sections 11 and 21 of this bill retain the authority of an association to place a lien upon a unit, but provide that such a lien may not be foreclosed.~~

~~Sections 13 and 15 of this bill provide that a presentation containing a description and summary of the governing documents must be made available to the purchaser of a unit. (NRS 116.4102, 116.4109)~~

~~Sections 17 and 18 of this bill: (1) expand the jurisdiction of the Commission for Common-Interest Communities and Condominium Hotels to include alleged violations of the governing documents of an association; (2) revise the amounts of administrative fines that may be imposed; and (3) revise the circumstances under which attorney's fees may be granted to a prevailing party. (NRS 116.745, 116.785)~~**]**

Section 10 of this bill requires an executive board to: (1) provide in the budget for the daily operation of the association an itemized list of expenses in excess of $100 expected to be incurred in each month; and (2) include in the budget a requirement that any money budgeted for nonrecurring expenses in excess of $100, other than expenses necessary for emergency repairs or emergency services, may not be expended without first obtaining the signatures of at least two members of the executive board. (NRS 116.31151) Section 10 also requires the budget to be available for review at a location not to exceed 60 miles from the common-interest community.

Section 12 of this bill requires the books, records and other papers of an association to be available for review at the business office of the association or a location not to exceed 60 miles from the common-interest community. Section 12 also requires that a copy of such documents must be provided to a unit's owner in electronic format at no cost to the unit's owner or, if the association is unable to provide a copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page. (NRS 116.31175)

Section 12.3 of this bill provides that if a unit's owner is the subject of retaliatory action based on certain complaints or requests, he may bring an action to recover compensatory damages and attorney's fees and costs. (NRS 116.31183)

Sections 13.5 and 15 of this bill require a public offering or a resale package to include a statement listing all current and expected fees for each unit.

Section 18.3 of this bill establishes the requirements concerning the disclosures that a community manager must make before entering into a management agreement and incorporates into statute the existing requirements contained in the Nevada Administrative Code. (NAC 116.310)

Section 18.4 of this bill sets forth the requirements of a management agreement and incorporates into statute the existing requirements contained in the Nevada Administrative Code. (NAC 116.305)

Section 18.5 of this bill sets forth the responsibilities and duties of a community manager, incorporates into statute many of the existing provisions of the Nevada Administrative Code and adds certain new responsibilities and duties. (NAC 116.300) Section 18.5 also provides that a community manager acts as a fiduciary at all times and must exercise ordinary and reasonable care in performing his duties.

Section 18.6 of this bill incorporates into statute many of the existing provisions of the Nevada Administrative Code pertaining to standards of practice for community managers and conduct warranting disciplinary action and establishes certain new requirements, such as provisions governing the acceptance of any compensation, gift or any other item of material value by the community manager. (NAC 116.341)

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

Section 1. ~~[NRS 116.2117 is hereby amended to read as follows:~~

~~116.2117 1. Except [as otherwise provided in NRS 116.21175, and except] in cases of amendments that may be executed by a declarant under subsection 6 of NRS 116.2109 or NRS 116.211, or by the association under NRS 116.1107, subsection 4 of NRS 116.2106, subsection 3 of NRS 116.2108, subsection 1 of NRS 116.2112 or NRS 116.2113, or by certain units' owners under subsection 2 of NRS 116.2108, subsection 1 of NRS 116.2112, subsection 2 of NRS 116.2113 or subsection 2 of NRS 116.2118, and except as otherwise limited by subsection 4, the declaration, including any plats and plans, may be amended only by vote or agreement of units' owners of units to which at least [a majority] *85 percent* of the votes in the association are allocated, or any larger [majority] *percentage* the declaration specifies. The declaration may specify a smaller number only if all of the units are restricted exclusively to nonresidential use.~~

~~2. No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than 1 year after the amendment is recorded.~~

~~3. Every amendment to the declaration must be recorded in every county in which any portion of the common-interest community is located and is effective only upon recordation. An amendment, except an amendment pursuant to NRS 116.2112, must be indexed in the grantee's index in the name of the common-interest community and the association and in the grantor's index in the name of the parties executing the amendment.~~

~~4. Except to the extent expressly permitted or required by other provisions of this chapter, no amendment may change the boundaries of any unit, the allocated interests of a unit or the uses to which any unit is restricted, in the absence of unanimous consent of the units' owners affected and the consent of a majority of the owners of the remaining units.~~

~~5. Amendments to the declaration required by this chapter to be recorded by the association must be prepared, executed, recorded and certified on behalf of the association by any officer of the association designated for that purpose or, in the absence of designation, by the president of the association.]~~ **(Deleted by amendment.)**

Sec. 1.5. **Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. If the governing documents authorize an association to charge a unit's owner the costs of collecting any past due obligation, the association may charge the unit's owner a reasonable fee to cover such costs. The Commission shall adopt regulations establishing the amount of the fee that an association may charge pursuant to this section.

2. The provisions of this section apply to any costs of collecting a past due obligation charged to a unit's owner, regardless of whether the past

due obligation is collected by the association itself or by any person acting on behalf of the association, including, without limitation, an officer or employee of the association, a community manager or a collection agency.

3. As used in this section:

(a) "Costs of collecting" includes any fee, charge or cost, by whatever name, including, without limitation, any collection fee, filing fee, recording fee, fee related to the preparation, recording or delivery of a lien or lien rescission, title search lien fee, bankruptcy search fee, referral fee, fee for postage or delivery and any other fee or cost that an association charges a unit's owner for the investigation, enforcement or collection of a past due obligation. The term does not include any costs incurred by an association if a lawsuit is filed to enforce any past due obligation or any costs awarded by a court.

(b) "Obligation" means any assessment, fine, construction penalty, fee, charge or interest levied or imposed against a unit's owner pursuant to any provision of this chapter or the governing documents.

Sec. 2. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in subsection 2, and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements

described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners.

(k) Impose charges for late payment of assessments ~~[.]~~ ***pursuant to NRS 116.3115.***

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Sec. 3. NRS 116.3103 is hereby amended to read as follows:

116.3103 1. Except as otherwise provided in the declaration, the bylaws, this section or other provisions of this chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, the officers and members of the executive board are fiduciaries ~~[.]~~ ***and shall act on an informed basis, in good faith and in the honest belief that their actions are in the best interest of the association.*** The members of the executive board are required to exercise the ordinary and reasonable care of directors of a corporation, subject to the business-judgment rule.

2. The executive board may not act on behalf of the association to amend the declaration, to terminate the common-interest community, or to elect members of the executive board or determine their qualifications, powers and duties or terms of office, but the executive board may fill vacancies in its membership for the unexpired portion of any term.

Sec. 4. NRS 116.31031 is hereby amended to read as follows:

116.31031 1. Except as otherwise provided in this section, if a unit's owner or a tenant or guest of a unit's owner violates any provision of the governing documents of an association, the executive board may, if the governing documents so provide:

(a) Prohibit, for a reasonable time, the unit's owner or the tenant or guest of the unit's owner from:

(1) Voting on matters related to the common-interest community.

(2) Using the common elements. The provisions of this subparagraph do not prohibit the unit's owner or the tenant or guest of the unit's owner from using any vehicular or pedestrian ingress or egress to go to or from the unit, including any area used for parking.

(b) Impose a fine against the unit's owner or the tenant or guest of the unit's owner for each violation, except that a fine may not be imposed for a violation that is the subject of a construction penalty pursuant to NRS 116.310305. If the violation poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents. If the violation does not pose an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community, the amount of the fine must be commensurate with the severity of the violation and must be determined by the executive board in accordance with the governing documents, but the amount of the fine must not exceed $100 for each violation or a total amount of $1,000, whichever is less. The limitations on the amount of the fine do not apply to any ~~[~~interest,~~]~~ charges or costs that may be collected by the association pursuant to this section if the fine becomes past due.

2. The executive board may not impose a fine pursuant to subsection 1 unless:

(a) Not less than 30 days before the violation, the person against whom the fine will be imposed had been provided with written notice of the applicable provisions of the governing documents that form the basis of the violation; and

(b) Within a reasonable time after the discovery of the violation, the person against whom the fine will be imposed has been provided with:

(1) Written notice specifying the details of the violation, the amount of the fine, and the date, time and location for a hearing on the violation; and

(2) A reasonable opportunity to contest the violation at the hearing.

3. The executive board must schedule the date, time and location for the hearing on the violation so that the person against whom the fine will be imposed is provided with a reasonable opportunity to prepare for the hearing and to be present at the hearing.

4. The executive board must hold a hearing before it may impose the fine, unless the person against whom the fine will be imposed:

(a) Pays the fine;

(b) Executes a written waiver of the right to the hearing; or

(c) Fails to appear at the hearing after being provided with proper notice of the hearing.

5. If a fine is imposed pursuant to subsection 1 and the violation is not cured within 14 days, or within any longer period that may be established by the executive board, the violation shall be deemed a continuing violation. Thereafter, the executive board may impose an additional fine for the violation for each 7-day period or portion thereof that the violation is not cured. Any additional fine may be imposed without notice and an opportunity to be heard.

6. If the governing documents so provide, the executive board may appoint a committee, with not less than three members, to conduct hearings on violations and to impose fines pursuant to this section. While acting on behalf of the executive board for those limited purposes, the committee and its members are entitled to all privileges and immunities and are subject to all duties and requirements of the executive board and its members.

7. The provisions of this section establish the minimum procedural requirements that the executive board must follow before it may impose a fine. The provisions of this section do not preempt any provisions of the governing documents that provide greater procedural protections.

8. Any past due fine ~~[:]~~ ***must not bear interest, but*** ~~[:~~

~~(a)]~~ ~~[~~Bears interest at the rate established by the association, not to exceed the legal rate per annum.

~~(b)]~~ ~~[~~May include any costs of collecting the past due fine at a rate established by the association. If the past due fine is for a violation that does not threaten the health, safety or welfare of the residents of the common-interest community, the rate established by the association for the costs of collecting the past due fine:

~~(1) May not exceed $20, if the outstanding balance is less than $200.~~

~~(2) May not exceed $50, if the outstanding balance is $200 or more, but is less than $500.~~

~~(3) May not exceed $100, if the outstanding balance is $500 or more, but is less than $1,000.~~

~~(4) May not exceed $250, if the outstanding balance is $1,000 or more, but is less than $5,000.~~

~~(5) May not exceed $500, if the outstanding balance is $5,000 or more.~~**]**

[~~(c)~~**]** ~~*[(b) May]*~~ ***may*** include any costs incurred by the association during a civil action to enforce the payment of the past due fine.

[~~9. As used in this section:~~

~~(a) "Costs of collecting" includes, without limitation, any collection fee, filing fee, recording fee, referral fee, fee for postage or delivery, and any other fee or cost that an association may reasonably charge to the unit's owner for the collection of a past due fine. The term does not include any costs incurred by an association during a civil action to enforce the payment of a past due fine.~~

~~(b) "Outstanding balance" means the amount of a past due fine that remains unpaid before any~~**]** **[**interest,**]** **[**~~charges for late payment or costs of collecting the past due fine are added.~~**]**

Sec. 5. **[**~~NRS 116.31034 is hereby amended to read as follows:~~

~~116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.~~

~~2. The term of office of a member of the executive board may not exceed 2 years.~~ **[**~~, except for members who are appointed by the declarant. Unless the governing documents provide otherwise,~~**]** ~~***If the common interest community consists of 50 or fewer units,*** there is no limitation on the number of terms that a person may serve as a member of the executive board. ***If the common interest community consists of more than 50 units, no person may serve as a member of the executive board for more than two consecutive terms and a period of at least 6 years must elapse before a person who formerly served as a member of the executive board may serve as a member of the executive board again.***~~

~~3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:~~

~~(a) Members of the executive board who are appointed by the declarant; and~~

~~(b) Members of the executive board who serve a term of 1 year or less.~~

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Each person whose name is placed on the ballot as a candidate for a member of the executive board must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot in the manner established in the bylaws of the association.

6. Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

7. An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

~~(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.~~

~~8. The election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:~~

~~(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common interest community or to any other mailing address designated in writing by the unit's owner.~~

~~(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.~~

~~(c) A quorum is not required for the election of any member of the executive board.~~

~~(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.~~

~~(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.~~

~~(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.~~

~~9. Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.~~ **(Deleted by amendment.)**

Sec. 6. NRS 116.3108 is hereby amended to read as follows:

116.3108 1. A meeting of the units' owners must be held at least once each year. If the governing documents do not designate an annual meeting date of the units' owners, a meeting of the units' owners must be held 1 year after the date of the last meeting of the units' owners. If the units' owners have not held a meeting for 1 year, a meeting of the units' owners must be held on the following March 1.

2. Special meetings of the units' owners may be called by the president, by a majority of the executive board or by units' owners constituting at least

10 percent, or any lower percentage specified in the bylaws, of the total number of voting members of the association. The same number of units' owners may also call a removal election pursuant to NRS 116.31036. To call a special meeting or a removal election, the units' owners must submit a written petition which is signed by the required percentage of the total number of voting members of the association pursuant to this section and which is mailed, return receipt requested, or served by a process server to the executive board or the community manager for the association. If the petition calls for a special meeting, the executive board shall set the date for the special meeting so that the special meeting is held not less than 15 days or more than 60 days after the date on which the petition is received. If the petition calls for a removal election and:

(a) The voting rights of the units' owners will be exercised by delegates or representatives as set forth in NRS 116.31105, the executive board shall set the date for the removal election so that the removal election is held not less than 15 days or more than 60 days after the date on which the petition is received; or

(b) The voting rights of the units' owners will be exercised through the use of secret written ballots pursuant to NRS 116.31036, the secret written ballots for the removal election must be sent in the manner required by NRS 116.31036 not less than 15 days or more than 60 days after the date on which the petition is received, and the executive board shall set the date for the meeting to open and count the secret written ballots so that the meeting is held not more than 15 days after the deadline for returning the secret written ballots.

3. Not less than 15 days or more than 60 days in advance of any meeting of the units' owners, the secretary or other officer specified in the bylaws shall cause notice of the meeting to be hand-delivered, sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner or, if the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner. The notice of the meeting must state the time and place of the meeting and include a copy of the agenda for the meeting. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request ~~[and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.]~~ ***, in electronic*** ~~*[or paper format,]*~~ ***format at no charge to the unit's owner*** ~~*[.]*~~ ***or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page.***

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

4. The agenda for a meeting of the units' owners must consist of:

(a) A clear and complete statement of the topics scheduled to be considered during the meeting, including, without limitation, any proposed amendment to the declaration or bylaws, any fees or assessments to be imposed or increased by the association, any budgetary changes and any proposal to remove an officer of the association or member of the executive board.

(b) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items. In an emergency, the units' owners may take action on an item which is not listed on the agenda as an item on which action may be taken.

(c) A period ~~[on]~~ ***at the beginning of each meeting and a period at the time each agenda item is addressed*** devoted to comments by units' owners and discussion of those comments. ***A unit's owner must be granted a minimum of*** ~~[5]~~ ***2 minutes to speak at the beginning of the meeting and a minimum of 2 minutes to speak on each agenda item*** ~~[.]~~ ***at the time the agenda item is being addressed.*** Except in emergencies, no action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to paragraph (b).

5. If the association adopts a policy imposing fines for any violations of the governing documents of the association, the secretary or other officer specified in the bylaws shall prepare and cause to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit's owner, a schedule of the fines that may be imposed for those violations.

6. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the units' owners. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meeting to be made available to the units' owners. ~~[A]~~ ***Except as otherwise provided in this subsection, a*** copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request ~~[and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.]~~ ***, in electronic*** ~~[or paper format,]~~ ***format at no charge to the unit's owner. If the unit's owner requests a copy of the minutes or a summary of the minutes of the meeting and the association is unable to provide the copy or summary in electronic format, the association shall provide a paper copy or summary to the unit's owner at a cost not to exceed 10 cents per page.***

7. Except as otherwise provided in subsection 8, the minutes of each meeting of the units' owners must include:

(a) The date, time and place of the meeting;

(b) The substance of all matters proposed, discussed or decided at the meeting; and

(c) The substance of remarks made by any unit's owner at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

8. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of a meeting of the units' owners . ~~*[unless a unit's owner has submitted written comments 24 hours before the meeting, which must be included in their entirety and read into the record before any vote or action is taken.]*~~

9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.

10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.

11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.

Sec. 7. NRS 116.31083 is hereby amended to read as follows:

116.31083 1. A meeting of the executive board must be held at least once every 90 days ~~.~~ ***and must be held at a time other than during standard business hours at least twice annually.***

2. Except in an emergency or unless the bylaws of an association require a longer period of notice, the secretary or other officer specified in the bylaws of the association shall, not less than 10 days before the date of a meeting of the executive board, cause notice of the meeting to be given to the units' owners. Such notice must be:

(a) Sent prepaid by United States mail to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner;

(b) If the association offers to send notice by electronic mail, sent by electronic mail at the request of the unit's owner to an electronic mail address designated in writing by the unit's owner; or

(c) Published in a newsletter or other similar publication that is circulated to each unit's owner.

3. In an emergency, the secretary or other officer specified in the bylaws of the association shall, if practicable, cause notice of the meeting to be sent prepaid by United States mail to the mailing address of each unit within the common-interest community. If delivery of the notice in this manner is impracticable, the notice must be hand-delivered to each unit within the common-interest community or posted in a prominent place or places within the common elements of the association.

4. The notice of a meeting of the executive board must state the time and place of the meeting and include a copy of the agenda for the meeting or the date on which and the locations where copies of the agenda may be conveniently obtained by the units' owners. The notice must include notification of the right of a unit's owner to:

(a) Have a copy of the minutes or a summary of the minutes of the meeting provided to the unit's owner upon request ~~[and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.]~~ ***, in electronic*** ~~*[or paper format,]*~~ ***format at no charge to the unit's owner*** ~~*[.]*~~ ***or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page.***

(b) Speak to the association or executive board, unless the executive board is meeting in executive session.

5. The agenda of the meeting of the executive board must comply with the provisions of subsection 4 of NRS 116.3108. ~~[The period required to be]~~ ***A period at the beginning of each meeting and a period at the time each agenda item is addressed must be*** devoted to comments by the units' owners and discussion of those comments ***.*** ~~[must be scheduled for the beginning of each meeting.]~~ ***A unit's owner must be granted a minimum of*** ~~*[5]*~~ ***2 minutes to speak at the beginning of each meeting and a minimum of 2 minutes to speak on each agenda item*** ~~*[.]*~~ ***at the time the agenda item is being addressed.*** In an emergency, the executive board may take action on an item which is not listed on the agenda as an item on which action may be taken.

6. At least once every 90 days, unless the declaration or bylaws of the association impose more stringent standards, the executive board shall review, at a minimum, the following financial information at one of its meetings:

(a) A current year-to-date financial statement of the association;

(b) A current year-to-date schedule of revenues and expenses for the operating account and the reserve account, compared to the budget for those accounts;

(c) A current reconciliation of the operating account of the association;

(d) A current reconciliation of the reserve account of the association;

(e) The latest account statements prepared by the financial institutions in which the accounts of the association are maintained; and

(f) The current status of any civil action or claim submitted to arbitration or mediation in which the association is a party.

7. The secretary or other officer specified in the bylaws shall cause minutes to be recorded or otherwise taken at each meeting of the executive board. Not more than 30 days after each such meeting, the secretary or other officer specified in the bylaws shall cause the minutes or a summary of the minutes of the meetings to be made available to the units' owners. ~~[A]~~ ***Except as otherwise provided in this subsection, a*** copy of the minutes or a summary of the minutes must be provided to any unit's owner upon request ~~[and, if required by the executive board, upon payment to the association of the cost of providing the copy to the unit's owner.]~~ ***, in electronic*** ~~*[or paper format,]*~~ ***format at no charge to the unit's owner. If the unit's owner requests a copy of the minutes or a summary of the minutes of the meeting and the association is unable to provide the copy or summary in electronic format, the association shall provide a written copy or summary to the unit's owner at a cost not to exceed 10 cents per page.***

8. Except as otherwise provided in subsection 9 and NRS 116.31085, the minutes of each meeting of the executive board must include:

(a) The date, time and place of the meeting;

(b) Those members of the executive board who were present and those members who were absent at the meeting;

(c) The substance of all matters proposed, discussed or decided at the meeting;

(d) A record of each member's vote on any matter decided by vote at the meeting; and

(e) The substance of remarks made by any unit's owner who addresses the executive board at the meeting if he requests that the minutes reflect his remarks or, if he has prepared written remarks, a copy of his prepared remarks if he submits a copy for inclusion.

9. The executive board may establish reasonable limitations on materials, remarks or other information to be included in the minutes of its meetings . ~~*[unless a unit's owner has submitted written comments 24 hours before the meeting, which must be included in their entirety and read into the record before any vote or action is taken.]*~~

10. The association shall maintain the minutes of each meeting of the executive board until the common-interest community is terminated.

11. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the executive board, unless the executive board is meeting in executive session, if the unit's owner, before recording the meeting, provides notice of his intent to record the meeting to the members of the executive board and the other units' owners who are in attendance at the meeting.

12. As used in this section, "emergency" means any occurrence or combination of occurrences that:

(a) Could not have been reasonably foreseen;

(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;

(c) Requires the immediate attention of, and possible action by, the executive board; and

(d) Makes it impracticable to comply with the provisions of subsection 2 or 5.

Sec. 8. NRS 116.31085 is hereby amended to read as follows:

116.31085 1. Except as otherwise provided in this section, a unit's owner may attend any meeting of the units' owners or of the executive board and speak at any such meeting. The executive board may establish reasonable limitations on the time a unit's owner may speak at such a meeting ~~[.]~~ ***, but must allow a unit's owner a minimum of*** ~~*[5]*~~ ***2 minutes to speak at the beginning of the meeting and a minimum of 2 minutes to speak on each agenda item*** ~~*[.]*~~ ***at the time the agenda item is being addressed.***

2. An executive board may not meet in executive session to enter into, renew, modify, terminate or take any other action regarding a contract, unless it is a contract between the association and an attorney.

3. An executive board may meet in executive session only to:

(a) Consult with the attorney for the association on matters relating to proposed or pending litigation if the contents of the discussion would otherwise be governed by the privilege set forth in NRS 49.035 to 49.115, inclusive, or to enter into, renew, modify, terminate or take any other action regarding a contract between the association and the attorney.

(b) Discuss the character, alleged misconduct, professional competence, or physical or mental health of a community manager or an employee of the association.

(c) Except as otherwise provided in subsection 4, discuss a violation of the governing documents, including, without limitation, the failure to pay an assessment.

(d) Discuss the alleged failure of a unit's owner to adhere to a schedule required pursuant to NRS 116.310305 if the alleged failure may subject the unit's owner to a construction penalty.

4. An executive board shall meet in executive session to hold a hearing on an alleged violation of the governing documents unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the executive board. If the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted, the person:

(a) Is entitled to attend all portions of the hearing related to the alleged violation, including, without limitation, the presentation of evidence and the testimony of witnesses; and

(b) Is not entitled to attend the deliberations of the executive board.

5. Except as otherwise provided in this subsection, any matter discussed by the executive board when it meets in executive session must be generally noted in the minutes of the meeting of the executive board. The executive board shall maintain minutes of any decision made pursuant to subsection 4 concerning an alleged violation and, upon request, provide a copy of the

decision to the person who was subject to being sanctioned at the hearing or to his designated representative.

6. Except as otherwise provided in subsection 4, a unit's owner is not entitled to attend or speak at a meeting of the executive board held in executive session.

Sec. 9. NRS 116.3115 is hereby amended to read as follows:

116.3115 1. Until the association makes an assessment for common expenses, the declarant shall pay all common expenses. After an assessment has been made by the association, assessments must be made at least annually, based on a budget adopted at least annually by the association in accordance with the requirements set forth in NRS 116.31151. Unless the declaration imposes more stringent standards, the budget must include a budget for the daily operation of the association and a budget for the reserves required by paragraph (b) of subsection 2.

2. Except for assessments under subsections 4 to 7, inclusive:

(a) All common expenses, including the reserves, must be assessed against all the units in accordance with the allocations set forth in the declaration pursuant to subsections 1 and 2 of NRS 116.2107.

(b) The association shall establish adequate reserves, funded on a reasonable basis, for the repair, replacement and restoration of the major components of the common elements. The reserves may be used only for those purposes, including, without limitation, repairing, replacing and restoring roofs, roads and sidewalks, and must not be used for daily maintenance. The association may comply with the provisions of this paragraph through a funding plan that is designed to allocate the costs for the repair, replacement and restoration of the major components of the common elements over a period of years if the funding plan is designed in an actuarially sound manner which will ensure that sufficient money is available when the repair, replacement and restoration of the major components of the common elements are necessary.

3. Any ~~[past due]~~ assessment for common expenses or installment thereof ***that is 60 days or more past due*** bears interest at ~~[the rate established by the association]~~ ~~[not exceeding 18]~~ ~~*[, which must not exceed 5 percent simple interest* per year.]~~ ***a rate equal to the prime rate at the largest bank in Nevada as ascertained by the Commissioner of Financial Institutions on January 1 or July 1, as the case may be, immediately preceding the date the assessment becomes past due, plus 2 percent. The rate must be adjusted accordingly on each January 1 and July 1 thereafter until the balance is satisfied.***

4. To the extent required by the declaration:

(a) Any common expense associated with the maintenance, repair, restoration or replacement of a limited common element must be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(b) Any common expense or portion thereof benefiting fewer than all of the units must be assessed exclusively against the units benefited; and

(c) The costs of insurance must be assessed in proportion to risk and the costs of utilities must be assessed in proportion to usage.

5. Assessments to pay a judgment against the association may be made only against the units in the common-interest community at the time the judgment was entered, in proportion to their liabilities for common expenses.

6. If any common expense is caused by the misconduct of any unit's owner, the association may assess that expense exclusively against his unit.

7. The association of a common-interest community created before January 1, 1992, is not required to make an assessment against a vacant lot located within the community that is owned by the declarant.

8. If liabilities for common expenses are reallocated, assessments for common expenses and any installment thereof not yet due must be recalculated in accordance with the reallocated liabilities.

9. The association shall provide written notice to each unit's owner of a meeting at which an assessment for a capital improvement is to be considered or action is to be taken on such an assessment at least 21 calendar days before the date of the meeting.

~~[*10. Notwithstanding any other provision of law, the association may levy any special assessment:*~~

~~*(a) To repair, replace or restore any major component of the common elements;*~~

~~*(b) To provide adequate funding for the reserves designated to repair, replace or restore any major component of the common elements; or*~~

~~*(c) For any capital improvement,*~~

~~*only by vote or agreement of units' owners of units to which at least two-thirds of the votes in the association are allocated, or any larger majority the declaration specifies.*~~

~~*11. If any special assessment is approved pursuant to subsection 10, payment of the special assessment must be made in accordance with the following schedule:*~~

~~*(a) If the amount of the special assessment is $750 or less, in one payment.*~~

~~*(b) If the amount of the special assessment is more than $750 but less than $1,500, in no fewer than 3 equal installments.*~~

~~*(c) If the amount of the special assessment is $1,500 or more but less than $2,000, in no fewer than 4 equal installments.*~~

~~*(d) If the amount of the special assessment is $2,000 or more but less than $3,000, in no fewer than 6 equal installments.*~~

~~*(e) If the amount of the special assessment is $3,000 or more, in equal installments of no less than $500.*~~

~~*The first payment or installment of any special assessment must be made within 120 days after notice of approval of the special assessment, and there must be an interval of at least 60 days between each installment.*~~

~~*12. Any special assessment or installment thereof that is more than 90 days past due bears interest at the rate established by the association, which must not exceed 3 percent simple interest per year.*~~

~~*13. If any assessment or special assessment pursuant to this section is past due, a statement must be mailed, return receipt requested, to the mailing address of record of the unit's owner within 60 days after the assessment or special assessment becomes past due and every 60 days thereafter if the assessment or special assessment remains past due. If any statement required pursuant to this section is not mailed to the unit's owner within 10 days of the date required pursuant to this section:*~~

~~*(a) The association shall be deemed to have waived any right to interest due pursuant to this section; and*~~

~~*(b) The unit's owner is not required to pay such interest.]*~~

Sec. 10. NRS 116.31151 is hereby amended to read as follows:

116.31151 1. Except as otherwise provided in subsection 2 and unless the declaration of a common-interest community imposes more stringent standards, the executive board shall, not less than 30 days or more than 60 days before the beginning of the fiscal year of the association, prepare and distribute to each unit's owner a copy of:

(a) ~~*[The financial statement for the prior fiscal year.*~~

~~*(b) Any audit prepared pursuant to NRS 116.31144.*~~

~~*(c)]*~~ The budget for the daily operation of the association. The budget must include, without limitation, the ***following:***

(1) The estimated annual revenue and expenditures of the association**.** ~~**[**and any**]**~~

(2) Any contributions to be made to the reserve account of the association.

(3) For each month in which expenses in excess of $100 are estimated to be incurred, an itemized list of the expenses expected to be incurred during that month.

(4) A requirement that any money budgeted for nonrecurring expenses in excess of $100, other than expenses necessary for emergency repairs or emergency services, must not be expended without first obtaining the signatures of at least two members of the executive board.

(b) ~~*[(d)]*~~ The budget to provide adequate funding for the reserves required by paragraph (b) of subsection 2 of NRS 116.3115. The budget must include, without limitation:

(1) The current estimated replacement cost, estimated remaining life and estimated useful life of each major component of the common elements;

(2) As of the end of the fiscal year for which the budget is prepared, the current estimate of the amount of cash reserves that are necessary, and the current amount of accumulated cash reserves that are set aside, to repair, replace or restore the major components of the common elements;

(3) A statement as to whether the executive board has determined or anticipates that the levy of one or more special assessments will be necessary

to repair, replace or restore any major component of the common elements or to provide adequate funding for the reserves designated for that purpose; and

(4) A general statement describing the procedures used for the estimation and accumulation of cash reserves pursuant to subparagraph (2), including, without limitation, the qualifications of the person responsible for the preparation of the study of the reserves required by NRS 116.31152.

2. In lieu of distributing copies of the budgets ~~*[financial documents]*~~ of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, ~~*[documents,]*~~ accompanied by a written notice that:

(a) The budgets are available for review at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties [;] ~~*[at a designated common area located within the common-interest community;]*~~ ***but not to exceed 60 miles from the physical location of the common-interest community;*** and

(b) Copies of the budgets ~~*[financial documents]*~~ will be provided upon request.

3. Within 60 days after adoption of any proposed budget for the common-interest community, the executive board shall provide a summary of the proposed budget to each unit's owner and shall set a date for a meeting of the units' owners to consider ratification of the proposed budget not less than 14 days or more than 30 days after the mailing of the summaries. ***The executive board must provide full disclosure concerning the proposed budget and allow comments by units' owners and discussion of those comments.*** Unless at that meeting a majority of all units' owners, or any larger vote specified in the declaration, reject the proposed budget, the proposed budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the units' owners must be continued until such time as the units' owners ratify a subsequent budget proposed by the executive board.

Sec. 11. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. ~~**[**Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section.**]**~~ If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

➥ The lien is also prior to all security interests described in paragraph (b) to the extent of the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

6. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

7. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

8. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

9. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

~~*[10. The association may not foreclose any lien upon any unit pursuant to this section.]*~~

Sec. 12. NRS 116.31175 is hereby amended to read as follows:

116.31175 1. Except as otherwise provided in this subsection, the executive board of an association shall, upon the written request of a unit's owner, make available the books, records and other papers of the association for review ***at the business office of the association or a designated*** ~~*[common area located within]*~~ ***business location not to exceed 60 miles from the physical location of the common-interest community and*** during the regular working hours of the association, including, without limitation, ~~*[any draft documents, legal opinions or correspondence,]*~~ all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to which the association is a party. The provisions of this subsection do not apply to:

(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees; ~~*[and]*~~

(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; and

(c) A contract between the association and an attorney.

2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:

(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.

(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.

(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.

3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:

(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and

(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.

4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:

(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or

(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.

5. The executive board shall not require a unit's owner to pay an ~~*[any]*~~ amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section. ***Upon written request of a unit's owner, copies must be provided to the unit's owner, in electronic*** ~~*[or paper]*~~ ***format at no charge*** ~~*[.]*~~ ***or, if the association is unable to provide the copy or summary in electronic format, in paper format at a cost not to exceed 10 cents per page.***

Sec. 12.3. **NRS 116.31183 is hereby amended to read as follows:**

116.31183 ***1.*** An executive board, a member of an executive board or an officer, employee or agent of an association shall not take, or direct or encourage another person to take, any retaliatory action against a unit's owner because the unit's owner has:

~~[1.]~~ ***(a)*** Complained in good faith about any alleged violation of any provision of this chapter or the governing documents of the association; or

~~[2.]~~ ***(b)*** Requested in good faith to review the books, records or other papers of the association.

2. In addition to any other remedy provided by law, upon a violation of this section, a unit's owner may bring a separate action to recover:

(a) Compensatory damages; and

(b) Attorney's fees and costs of bringing the separate action.

Sec. 12.7. **NRS 116.31185 is hereby amended to read as follows:**

116.31185 1. Except as otherwise provided in subsection 2, a member of an executive board, an officer of an association or a community manager shall not solicit or accept any form of compensation, gratuity or other remuneration that:

(a) Would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or

(b) Would result or would appear to a reasonable person to result in a conflict of interest for those persons.

2. Notwithstanding the provisions of subsection 1, a member of an executive board, an officer of an association, a community manager or any person working for a community manager shall not accept, directly or

indirectly, any gifts, incentives, gratuities, rewards or other items of value from:

(a) An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such attorney, law firm or vendor; or

(b) A declarant, an affiliate of a declarant or any person responsible for the construction of the applicable community or association which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such declarant, affiliate or person.

3. An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.

4. A declarant, an affiliate of a declarant or any person responsible for the construction of a community or association, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board, an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.

5. In addition to the limitations set forth in subsection 1, a community manager shall not solicit or accept any form of compensation, fee or other remuneration that is based, in whole or in part, on:

(a) The number or amount of fines imposed against or collected from units' owners or tenants or guests of units' owners pursuant to NRS 116.31031 for violations of the governing documents of the association; or

(b) Any percentage or proportion of those fines.

6. The provisions of this section do not prohibit a community manager from being paid compensation, a fee or other remuneration under the terms of a contract between the community manager and an association if:

(a) The scope of the respective rights, duties and obligations of the parties under the contract comply with the standards of practice for community managers ***set forth in sections 18.5 and 18.6 of this act and any additional standards of practice*** adopted by the Commission ***by regulation*** pursuant to NRS 116A.400;

(b) The compensation, fee or other remuneration is being paid to the community manager for providing management of the common-interest community; and

(c) The compensation, fee or other remuneration is not structured in a way that would violate the provisions of subsection 1 or 5.

Sec. 13. ~~[NRS 116.4102 is hereby amended to read as follows:~~

~~116.4102 1. Except as otherwise provided in subsection 2, a declarant, before offering any interest in a unit to the public, shall prepare a public offering statement conforming to the requirements of NRS 116.4103 to 116.4106, inclusive.~~

~~2. A declarant may transfer responsibility for the preparation of all or a part of the public offering statement to a successor declarant pursuant to NRS 116.3104 and 116.31043, or to a dealer who intends to offer units in the common-interest community. In the event of any such transfer, the transferor shall provide the transferee with any information necessary to enable the transferee to fulfill the requirements of subsection 1.~~

~~3. Any declarant or dealer who offers a unit to a purchaser shall deliver a public offering statement in the manner prescribed in subsection 1 of NRS 116.4108. The declarant or his transferee under subsection 2 is liable under NRS 116.4108 and 116.4117 for any false or misleading statement set forth therein or for any omission of a material fact therefrom with respect to that portion of the public offering statement which he prepared. If a declarant or dealer did not prepare any part of a public offering statement that he delivers, he is not liable for any false or misleading statement set forth therein or for any omission of a material fact therefrom unless he had actual knowledge of the statement or omission or, in the exercise of reasonable care, should have known of the statement or omission.~~

~~4. If a unit is part of a common interest community and is part of any other real estate in connection with the sale of which the delivery of a public offering statement is required under the laws of this State, a single public offering statement conforming to the requirements of NRS 116.4103 to 116.4106, inclusive, as those requirements relate to the real estate in which the unit is located, and to any other requirements imposed under the laws of this State, may be prepared and delivered in lieu of providing two or more public offering statements. If the requirements of this chapter conflict with those of another law of this State, the requirements of this chapter prevail.~~

~~5. Before offering any interest in a unit to the public, in addition to preparing a public offering statement for a purchaser pursuant to this section, a declarant shall make available to a purchaser a presentation, conducted in person or through the use of multimedia technology, containing a description and summary of the governing documents. As used in this subsection, "multimedia technology" means an audio compact disc, digital video disc, computer file or other similar technology that allows a person to view or listen to recorded material.]~~ **(Deleted by amendment.)**

Sec. 13.5. **NRS 116.4103 is hereby amended to read as follows:**

116.4103 1. Except as otherwise provided in NRS 116.41035, a public offering statement must set forth or fully and accurately disclose each of the following:

(a) The name and principal address of the declarant and of the common-interest community, and a statement that the common-interest community is either a condominium, cooperative or planned community.

(b) A general description of the common-interest community, including to the extent possible, the types, number and declarant's schedule of commencement and completion of construction of buildings, and amenities that the declarant anticipates including in the common-interest community.

(c) The estimated number of units in the common-interest community.

(d) Copies of the declaration, bylaws, and any rules or regulations of the association, but a plat or plan is not required.

(e) A current year-to-date financial statement, including the most recent audited or reviewed financial statement, and the projected budget for the association, either within or as an exhibit to the public offering statement, for 1 year after the date of the first conveyance to a purchaser, and thereafter the current budget of the association. The budget must include, without limitation:

(1) A statement of the amount included in the budget as reserves for repairs, replacement and restoration pursuant to NRS 116.3115; and

(2) The projected monthly assessment for common expenses for each type of unit, including the amount established as reserves pursuant to NRS 116.3115.

(f) A description of any services or subsidies being provided by the declarant or an affiliate of the declarant, not reflected in the budget.

(g) Any initial or special fee due from the purchaser at closing, together with a description of the purpose and method of calculating the fee.

(h) The terms and significant limitations of any warranties provided by the declarant, including statutory warranties and limitations on the enforcement thereof or on damages.

(i) A statement that unless the purchaser or his agent has personally inspected the unit, the purchaser may cancel, by written notice, his contract for purchase until midnight of the fifth calendar day following the date of execution of the contract, and the contract must contain a provision to that effect.

(j) A statement of any unsatisfied judgments or pending suits against the association, and the status of any pending suits material to the common-interest community of which a declarant has actual knowledge.

(k) Any current or expected fees or charges to be paid by units' owners for the use of the common elements and other facilities related to the common-interest community.

(l) ***In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates***

on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

(m) The information statement set forth in NRS 116.41095.

2. A declarant is not required to revise a public offering statement more than once each calendar quarter, if the following warning is given prominence in the statement: "THIS PUBLIC OFFERING STATEMENT IS CURRENT AS OF (insert a specified date). RECENT DEVELOPMENTS REGARDING (here refer to particular provisions of NRS 116.4103 and 116.4105) MAY NOT BE REFLECTED IN THIS STATEMENT."

Sec. 14. ~~[NRS 116.4105 is hereby amended to read as follows:~~

~~116.4105 If the declaration provides that ownership or occupancy of any units [,] is or may be in time shares, the public offering statement shall disclose, in addition to the information required by NRS 116.4103 and 116.41035:~~

~~1. The number and identity of units in which time shares may be created;~~

~~2. The total number of time shares that may be created;~~

~~3. The minimum duration of any time shares that may be created; and~~

~~4. The extent to which the creation of time shares will or may affect the enforceability of the association's lien for assessments provided in NRS 116.3116 . [and 116.31162.]]~~ **(Deleted by amendment.)**

Sec. 15. NRS 116.4109 is hereby amended to read as follows:

116.4109 1. Except in the case of a sale in which delivery of a public offering statement is required, or unless exempt under subsection 2 of NRS 116.4101, a unit's owner or his authorized agent shall furnish to a purchaser a resale package containing all of the following:

(a) A copy of the declaration, other than any plats and plans, the bylaws, the rules or regulations of the association and the information statement required by NRS 116.41095;

(b) A statement setting forth the amount of the monthly assessment for common expenses and any unpaid assessment of any kind currently due from the selling unit's owner;

(c) A copy of the current operating budget of the association and current year-to-date financial statement for the association, which must include a summary of the reserves of the association required by NRS 116.31152 and which must include, without limitation, a summary of the information described in paragraphs (a) to (e), inclusive, of subsection 3 of NRS 116.31152; and

(d) A statement of any unsatisfied judgments or pending legal actions against the association and the status of any pending legal actions relating to the common-interest community of which the unit's owner has actual knowledge.

(e) In addition to any other document, a statement describing all current and expected fees or charges for each unit, including, without limitation, association fees, fines, assessments, late charges or penalties, interest rates

on delinquent assessments, additional costs for collecting past due fines and charges for opening or closing any file for each unit.

2. The purchaser may, by written notice, cancel the contract of purchase until midnight of the fifth calendar day following the date of receipt of the resale package described in subsection 1, and the contract for purchase must contain a provision to that effect. If the purchaser elects to cancel a contract pursuant to this subsection, he must hand deliver the notice of cancellation to the unit's owner or his authorized agent or mail the notice of cancellation by prepaid United States mail to the unit's owner or his authorized agent. Cancellation is without penalty, and all payments made by the purchaser before cancellation must be refunded promptly. If the purchaser has accepted a conveyance of the unit, the purchaser is not entitled to:

(a) Cancel the contract pursuant to this subsection; or

(b) Damages, rescission or other relief based solely on the ground that the unit's owner or his authorized agent failed to furnish the resale package, or any portion thereof, as required by this section.

3. Within 10 days after receipt of a written request by a unit's owner or his authorized agent, the association shall furnish all of the following to the unit's owner or his authorized agent for inclusion in the resale package:

(a) Copies of the documents required pursuant to paragraphs (a) and (c) of subsection 1; and

(b) A certificate containing the information necessary to enable the unit's owner to comply with paragraphs (b) and (d) of subsection 1.

4. If the association furnishes the documents and certificate pursuant to subsection 3:

(a) The unit's owner or his authorized agent shall include the documents and certificate in the resale package provided to the purchaser, and neither the unit's owner nor his authorized agent is liable to the purchaser for any erroneous information provided by the association and included in the documents and certificate.

(b) The association may charge the unit's owner a reasonable fee to cover the cost of preparing the certificate furnished pursuant to subsection 3. Such a fee must be based on the actual cost the association incurs to fulfill the requirements of this section in preparing the certificate. The Commission shall adopt regulations establishing the maximum amount of the fee that an association may charge for preparing the certificate.

(c) The association may charge the unit's owner a reasonable fee, not to exceed 25 cents per page, to cover the cost of copying the other documents furnished pursuant to subsection 3.

(d) Except for the fees allowed pursuant to paragraphs (b) and (c), the association may not charge the unit's owner any other fees for preparing or furnishing the documents and certificate pursuant to subsection 3.

5. Neither a purchaser nor the purchaser's interest in a unit is liable for any unpaid assessment or fee greater than the amount set forth in the documents and certificate prepared by the association. If the association fails

to furnish the documents and certificate within the 10 days allowed by this section, the seller is not liable for the delinquent assessment.

6. Upon the request of a unit's owner or his authorized agent, or upon the request of a purchaser to whom the unit's owner has provided a resale package pursuant to this section or his authorized agent, the association shall make the entire study of the reserves of the association which is required by NRS 116.31152 reasonably available for the unit's owner, purchaser or authorized agent to inspect, examine, photocopy and audit. The study must be made available at the business office of the association or some other suitable location within the county where the common-interest community is situated or, if it is situated in more than one county, within one of those counties.

~~*[7. In addition to the resale package required to be furnished to a purchaser pursuant to this section, the association shall make available to a purchaser, at the expense of the association, a presentation, conducted in person or through the use of multimedia technology, containing a description and summary of the governing documents. As used in this subsection, "multimedia technology" means an audio compact disc, digital video disc, computer file or other similar technology that allows a person to view or listen to recorded material.]*~~

Sec. 16. ~~[~~NRS 116.41095 is hereby amended to read as follows:

~~116.41095 The information statement required by NRS 116.4103 and 116.4109 must be in substantially the following form:~~

~~BEFORE YOU PURCHASE PROPERTY IN A~~
~~COMMON INTEREST COMMUNITY~~
~~DID YOU KNOW . . .~~

~~1. YOU GENERALLY HAVE 5 DAYS TO CANCEL THE PURCHASE AGREEMENT?~~

~~When you enter into a purchase agreement to buy a home or unit in a common-interest community, in most cases you should receive either a public offering statement, if you are the original purchaser of the home or unit, or a resale package, if you are not the original purchaser. The law generally provides for a 5-day period in which you have the right to cancel the purchase agreement. The 5-day period begins on different starting dates, depending on whether you receive a public offering statement or a resale package. Upon receiving a public offering statement or a resale package, you should make sure you are informed of the deadline for exercising your right to cancel. In order to exercise your right to cancel, the law generally requires that you hand deliver the notice of cancellation to the seller within the 5-day period, or mail the notice of cancellation to the seller by prepaid United States mail within the 5-day period. For more information regarding your right to cancel, see Nevada Revised Statutes 116.4108, if you received a public offering statement, or Nevada Revised Statutes 116.4109, if you received a resale package.~~

~~2. YOU ARE AGREEING TO RESTRICTIONS ON HOW YOU CAN USE YOUR PROPERTY?~~

~~These restrictions are contained in a document known as the Declaration of Covenants, Conditions and Restrictions. The CC&Rs become a part of the title to your property. They bind you and every future owner of the property whether or not you have read them or had them explained to you. The CC&Rs, together with other "governing documents" (such as association bylaws and rules and regulations), are intended to preserve the character and value of properties in the community, but may also restrict what you can do to improve or change your property and limit how you use and enjoy your property. By purchasing a property encumbered by CC&Rs, you are agreeing to limitations that could affect your lifestyle and freedom of choice. You should review the CC&Rs, and other governing documents before purchasing to make sure that these limitations and controls are acceptable to you.~~

~~3. YOU WILL HAVE TO PAY OWNERS' ASSESSMENTS FOR AS LONG AS YOU OWN YOUR PROPERTY?~~

~~As an owner in a common-interest community, you are responsible for paying your share of expenses relating to the common elements, such as landscaping, shared amenities and the operation of any homeowners' association. The obligation to pay these assessments binds you and every future owner of the property. Owners' fees are usually assessed by the homeowners' association and due monthly. You have to pay dues whether or not you agree with the way the association is managing the property or spending the assessments. The executive board of the association may have the power to change and increase the amount of the assessment and to levy special assessments against your property to meet extraordinary expenses. In some communities, major components of the common elements of the community such as roofs and private roads must be maintained and replaced by the association. If the association is not well managed or fails to provide adequate funding for reserves to repair, replace and restore common elements, you may be required to pay large, special assessments to accomplish these tasks.~~

~~4. [IF YOU FAIL TO PAY OWNERS' ASSESSMENTS, YOU COULD LOSE YOUR HOME?~~

~~If you do not pay these assessments when due, the association usually has the power to collect them by selling your property in a nonjudicial foreclosure sale. If fees become delinquent, you may also be required to pay penalties and the association's costs and attorney's fees to become current. If you dispute the obligation or its amount, your only remedy to avoid the loss of your home may be to file a lawsuit and ask a court to intervene in the dispute.~~

~~5.] YOU MAY BECOME A MEMBER OF A HOMEOWNERS' ASSOCIATION THAT HAS THE POWER TO AFFECT HOW YOU USE AND ENJOY YOUR PROPERTY?~~

~~Many common-interest communities have a homeowners' association. In a new development, the association will usually be controlled by the developer~~

~~until a certain number of units have been sold. After the period of developer control, the association may be controlled by property owners like yourself who are elected by homeowners to sit on an executive board and other boards and committees formed by the association. The association, and its executive board, are responsible for assessing homeowners for the cost of operating the association and the common or shared elements of the community and for the day to day operation and management of the community. Because homeowners sitting on the executive board and other boards and committees of the association may not have the experience or professional background required to understand and carry out the responsibilities of the association properly, the association may hire professional community managers to carry out these responsibilities.~~

~~Homeowners' associations operate on democratic principles. Some decisions require all homeowners to vote, some decisions are made by the executive board or other boards or committees established by the association or governing documents. Although the actions of the association and its executive board are governed by state laws, the CC&Rs and other documents that govern the common-interest community, decisions made by these persons will affect your use and enjoyment of your property, your lifestyle and freedom of choice, and your cost of living in the community. You may not agree with decisions made by the association or its governing bodies even though the decisions are ones which the association is authorized to make. Decisions may be made by a few persons on the executive board or governing bodies that do not necessarily reflect the view of the majority of homeowners in the community. If you do not agree with decisions made by the association, its executive board or other governing bodies, your remedy is typically to attempt to use the democratic processes of the association to seek the election of members of the executive board or other governing bodies that are more responsive to your needs. If you have a dispute with the association, its executive board or other governing bodies, you may be able to resolve the dispute through the complaint, investigation and intervention process administered by the Office of the Ombudsman for Owners in Common-Interest Communities and Condominium Hotels, the Nevada Real Estate Division and the Commission for Common Interest Communities and Condominium Hotels. However, to resolve some disputes, you may have to mediate or arbitrate the dispute and, if mediation or arbitration is unsuccessful, you may have to file a lawsuit and ask a court to resolve the dispute. In addition to your personal cost in mediation or arbitration, or to prosecute a lawsuit, you may be responsible for paying your share of the association's cost in defending against your claim.~~

~~[~~6.~~]~~ ~~5. YOU ARE REQUIRED TO PROVIDE PROSPECTIVE PURCHASERS OF YOUR PROPERTY WITH INFORMATION ABOUT LIVING IN YOUR COMMON-INTEREST COMMUNITY?~~

~~The law requires you to provide a prospective purchaser of your property with a copy of the community's governing documents, including the CC&Rs,~~

~~association bylaws, and rules and regulations, as well as a copy of this document. You are also required to provide a copy of the association's current year-to-date financial statement, including, without limitation, the most recent audited or reviewed financial statement, a copy of the association's operating budget and information regarding the amount of the monthly assessment for common expenses, including the amount set aside as reserves for the repair, replacement and restoration of common elements. You are also required to inform prospective purchasers of any outstanding judgments or lawsuits pending against the association of which you are aware. For more information regarding these requirements, see Nevada Revised Statutes 116.4109.~~

~~[7.] 6. YOU HAVE CERTAIN RIGHTS REGARDING OWNERSHIP IN A COMMON INTEREST COMMUNITY THAT ARE GUARANTEED YOU BY THE STATE?~~

~~Pursuant to provisions of chapter 116 of Nevada Revised Statutes, you have the right:~~

~~(a) To be notified of all meetings of the association and its executive board, except in cases of emergency.~~

~~(b) To attend and speak at all meetings of the association and its executive board, except in some cases where the executive board is authorized to meet in closed, executive session.~~

~~(c) To request a special meeting of the association upon petition of at least 10 percent of the homeowners.~~

~~(d) To inspect, examine, photocopy and audit financial and other records of the association.~~

~~(e) To be notified of all changes in the community's rules and regulations and other actions by the association or board that affect you.~~

~~[8.] 7. QUESTIONS?~~

~~Although they may be voluminous, you should take the time to read and understand the documents that will control your ownership of a property in a common interest community. You may wish to ask your real estate professional, lawyer or other person with experience to explain anything you do not understand. You may also request assistance from the Office of the Ombudsman for Owners in Common Interest Communities and Condominium Hotels, Nevada Real Estate Division, at (telephone number).~~

~~Buyer or prospective buyer's initials:_____~~

~~Date:_____]~~ **(Deleted by amendment.)**

Sec. 17. NRS 116.745 is hereby amended to read as follows:

116.745 As used in NRS 116.745 to 116.795, inclusive, unless the context otherwise requires, "violation" means a violation of ~~[any]~~ ***:***

1. Any provision of this chapter ~~[, any]~~ ***;***

2. Any regulation adopted pursuant ~~[thereto or any]~~ ***to this chapter;***

3. Any order of the Commission or a hearing panel ~~[.]~~ ***; or***

4. Any provision of the governing documents of an association.

Sec. 18. ~~[NRS 116.785 is hereby amended to read as follows:~~

~~116.785—1.—If the Commission or the hearing panel, after notice and hearing, finds that the respondent has committed a violation, the Commission or the hearing panel may take any or all of the following actions:~~

~~(a) Issue an order directing the respondent to cease and desist from continuing to engage in the unlawful conduct that resulted in the violation.~~

~~(b) Issue an order directing the respondent to take affirmative action to correct any conditions resulting from the violation.~~

~~(c) Impose an administrative fine~~ **[**~~of~~**]** ***against:***

(1) A unit's owner or tenant of a unit's owner if the tenant has entered into an agreement with the unit's owner to abide by the governing documents of the association and the provisions of this chapter and any regulations adopted pursuant thereto. The amount of the administrative fine must be ~~not more than~~ **[**~~$1,000~~**]** ***$100*** ~~for each violation~~ **[**.**]** ***, except that the total of all administrative fines imposed against a unit's owner or tenant pursuant to this subparagraph must not exceed $400 during any 2-year period.***

(2) An association, any officer, employee or agent of an association, any member of an executive board, any community manager who holds a certificate and any other community manager, any person who holds a permit to conduct a study of the reserves of an association issued pursuant to chapter 116A of NRS, and any declarant or affiliate of a declarant. Except as otherwise provided in this subparagraph, the amount of the administrative fine must be not more than $2,000 for each violation and the total of all administrative fines imposed against any person pursuant to this subparagraph must not exceed $6,000 during any 2-year period. If a person has committed three violations within a 2-year period, an administrative fine may be imposed of not more than $4,500 for each additional violation that occurs within the 2-year period and the limitation of $6,000 on the total of all administrative fines imposed against the person during the 2-year period does not apply.

~~2.—If the respondent is a member of an executive board or an officer of an association, the Commission or the hearing panel may order the respondent removed from his office or position if the Commission or the hearing panel, after notice and hearing, finds that:~~

~~(a) The respondent has knowingly and willfully committed a violation; and~~

~~(b) The removal is in the best interest of the association.~~

~~3.—If the respondent violates any order issued by the Commission or the hearing panel pursuant to this section, the Commission or the hearing panel, after notice and hearing, may impose an administrative fine of not more than $1,000 for each violation.~~

~~4.—If the Commission or the hearing panel takes any disciplinary action pursuant to this section, the Commission or the hearing panel may order the respondent to pay the costs of the proceedings incurred by the Division,~~

~~including, without limitation, the cost of the investigation~~ **.** **[**~~and reasonable attorney's fees.~~**]**

~~5. In any matter brought before the Commission or a hearing panel pursuant to the provisions of this chapter, regardless of whether or not the governing documents provide for such fees to be granted to a prevailing party, attorney's fees may be granted to:~~

~~(a) A unit's owner who is the prevailing party; or~~

~~(b) Any person other than a unit's owner who is the prevailing party, except that if the matter is brought before the Commission or a hearing panel based upon an affidavit filed by a unit's owner pursuant to NRS 116.760, that unit's owner must not be required to pay any attorney's fees unless it is determined that the affidavit was filed in bad faith or for a vexatious purpose.~~

~~6. Notwithstanding any other provision of this section, unless the respondent has knowingly and willfully committed a violation, if the respondent is a member of an executive board or an officer of an association:~~

~~(a) The association is liable for all fines and costs imposed against the respondent pursuant to this section; and~~

~~(b) The respondent may not be held personally liable for those fines and costs.~~**]** **(Deleted by amendment.)**

Sec. 18.05. **Chapter 116A of NRS is hereby amended by adding thereto the provisions set forth as sections 18.1 to 18.6, inclusive, of this act.**

Sec. 18.1. ***"Client" means an executive board that has entered into a management agreement with a community manager.***

Sec. 18.2. ***"Management agreement" means an agreement for the management of a common-interest community.***

Sec. 18.3. ***Before entering into a management agreement, a community manager shall disclose in writing to the prospective client any material and relevant information which he knows, or by the exercise of reasonable care and diligence should know, relate to the performance of the management agreement, including any matters which may affect his ability to comply with the provisions of this chapter or chapter 116 or 116B of NRS. Such written disclosure must include, without limitation:***

1. Whether he, or any member of his organization, expects to receive any direct or indirect compensation, gifts or profits from any person who will perform services for the client and, if so, the identity of the person and the nature of the services rendered.

2. Any affiliation with or financial interest in any person or business who furnishes any goods or services to the association.

3. Any pecuniary relationships with any unit's owner, member of the executive board or officer of the association.

Sec. 18.4. 1. Any management agreement must:

(a) Be in writing and signed by all parties;

(b) Be entered into between the client and the community manager or the employer of the community manager if the community manager is acting on behalf of a corporation, partnership, limited partnership, limited-liability partnership, limited-liability company or other entity;

(c) State the term of the management agreement;

(d) State the basic consideration for the services to be provided and the payment schedule;

(e) Include a complete schedule of all fees, costs, expenses and charges to be imposed by the community manager, whether direct or indirect, including, without limitation:

(1) The costs for any new association or start-up costs;

(2) The fees for special or nonroutine services, such as the mailing of collection letters, the recording of liens and foreclosing of property;

(3) Reimbursable expenses;

(4) The fees for the sale or resale of a unit or for setting up the account of a new member; and

(5) The portion of fees that are to be retained by the client and the portion to be retained by the community manager;

(f) State the identity and the legal status of the contracting parties;

(g) State any limitations on the liability of each contracting party;

(h) Include a statement of the scope of work of the community manager;

(i) State the spending limits of the community manager;

(j) Include provisions relating to the grounds and procedures for termination of the community manager;

(k) Identify the types and amounts of insurance coverage to be carried by each contracting party, including, without limitation:

(1) A requirement that the community manager or his employer shall maintain insurance covering liability for errors or omissions, professional liability or a surety bond to compensate for losses actionable pursuant to this chapter in an amount of $1,000,000 or more;

(2) An indication of which contracting party will maintain fidelity bond coverage; and

(3) A statement as to whether the association will maintain directors and officers liability coverage for the executive board;

(l) Include provisions for dispute resolution;

(m) Acknowledge that all records and books of the client are the property of the client, except any proprietary information and software belonging to the community manager;

(n) State the physical location, including the street address, of the records of the client, which must be within 60 miles from the physical location of the common-interest community;

(o) State the frequency and extent of regular inspections of the common-interest community; and

(p) State the extent, if any, of the authority of the community manager to sign checks on behalf of the client in an operating account.

2. In addition to any other requirements under this section, a management agreement may:

(a) Provide for mandatory binding arbitration; or

(b) Allow the provisions of the management agreement to apply month to month following the end of the term of the management agreement, but the management agreement may not contain an automatic renewal provision.

3. Not later than 10 days after the effective date of a management agreement, the community manager shall provide each member of the executive board evidence of the existence of the required insurance, including, without limitation:

(a) The names and addresses of all insurance companies;

(b) The total amount of coverage; and

(c) The amount of any deductible.

4. After signing a management agreement, the community manager shall provide a copy of the management agreement to each member of the executive board. Within 30 days after an election or appointment of a new member to the executive board, the community manager shall provide the new member with a copy of the management agreement.

5. Any changes to a management agreement must be initialed by the contracting parties. If there are any changes after the execution of a management agreement, those changes must be in writing and signed by the contracting parties.

6. Except as otherwise provided in the management agreement, upon the termination or assignment of a management agreement, the community manager shall, within 30 days after the termination or assignment, transfer possession of all books, records and other papers of the client to the succeeding community manager, or to the client if there is no succeeding community manager, regardless of any unpaid fees or charges to the community manager or management company.

7. Notwithstanding any provision in a management agreement to the contrary, a management agreement may be terminated by the client without penalty upon 30 days' notice following a violation by the community manager of any provision of this chapter or chapter 116 of NRS.

Sec. 18.5. *In addition to any additional standards of practice for community managers adopted by the Commission by regulation pursuant to NRS 116A.400, a community manager shall:*

1. Except as otherwise provided by specific statute, at all times:

(a) Act as a fiduciary in any client relationship; and

(b) Exercise ordinary and reasonable care in the performance of his duties.

2. Comply with all applicable:

(a) Federal, state and local laws, regulations and ordinances; and

(b) Lawful provisions of the governing documents of each client.

3. Keep informed of new developments in the management of a common-interest community through continuing education, including, without limitation, new developments in law, insurance coverage and accounting principles.

4. Advise a client to obtain advice from an independent expert relating to matters that are beyond the expertise of the community manager.

5. Under the direction of a client, uniformly enforce the provisions of the governing documents of the association.

6. At all times ensure that:

(a) The financial transactions of a client are current, accurate and properly documented; and

(b) There are established policies and procedures that are designed to provide reasonable assurances in the reliability of the financial reporting, including, without limitation:

(1) Proper maintenance of accounting records;

(2) Documentation of the authorization for any purchase orders, expenditures or disbursements;

(3) Verification of the integrity of the data used in business decisions;

(4) Facilitation of fraud detection and prevention; and

(5) Compliance with all applicable laws and regulations governing financial records.

7. Prepare or cause to be prepared interim and annual financial statements that will allow the Division, the executive board, the units' owners and the accountant or auditor to determine whether the financial position of an association is fairly presented in accordance with all applicable laws and regulations.

8. Cause to be prepared annually a financial audit performed by an independent certified public accountant of the records of the community manager pertaining to the common-interest community, which must be made available to the Division.

9. Make the financial records of an association available for inspection by the Division in accordance with the applicable laws and regulations.

10. Cooperate with the Division in resolving complaints filed with the Division.

11. Upon written request, make the financial records of an association available to the units' owners electronically or during regular business hours required for inspection at a reasonably convenient location, which must be within 60 miles from the physical location of the common-interest community, and provide copies of such records in accordance with the applicable laws and regulations. As used in this subsection, "regular business hours" means Monday through Friday, 9 a.m. to 5 p.m., excluding legal holidays.

12. Maintain and invest association funds in a financial institution whose accounts are insured by the Federal Deposit Insurance Corporation, National Credit Union Share Insurance Fund, Securities Investor

Protection Corporation, or a private insurer approved pursuant to NRS 678.755, or in government securities that are backed by the full faith and credit of the United States Government.

13. Except as required under collection agreements, maintain the various funds of the association in separate financial accounts in the name of the association and ensure that the association is authorized to have direct access to those accounts.

14. Provide notice to each unit's owner that the executive board is aware of all legal requirements pursuant to the applicable laws and regulations.

15. Maintain internal accounting controls, including, without limitation, segregation of incompatible accounting functions.

16. Ensure that the executive board develops and approves written investment policies and procedures.

17. Recommend in writing to each client that the association register with the Division, maintain its registration and file all papers with the Division and the Secretary of State as required by law.

18. Comply with the directions of a client, unless the directions conflict with the governing documents of the association or the applicable laws or regulations of this State.

19. Recommend in writing to each client that the association be in compliance with all applicable federal, state and local laws, regulations and ordinances and the governing documents of the association.

20. Obtain, when practicable, at least three qualified bids for any capital improvement project for the association.

21. Develop written collection policies, approved by the executive board, to comply with all applicable federal, state and local laws, regulations and ordinances relating to the collection of debt. The collection policies must require:

(a) That the executive board approve all write-offs of debt; and

(b) That the community manager provide timely updates and reports as necessary.

Sec. 18.6. In addition to the standards of practice for community managers set forth in section 18.5 of this act and any additional standards of practice adopted by the Commission by regulation pursuant to NRS 116A.400, a community manager shall not:

1. Except as otherwise required by law or court order, disclose confidential information relating to a client, which includes, without limitation, the business affairs and financial records of the client, unless the client agrees to the disclosure in writing.

2. Impede or otherwise interfere with an investigation of the Division by:

(a) Failing to comply with a request of the Division to provide documents;

(b) Supplying false or misleading information to an investigator, auditor or any other officer or agent of the Division; or

(c) Concealing any facts or documents relating to the business of a client.

3. Commingle money or other property of a client with the money or other property of another client, another association, the community manager or the employer of the community manager.

4. Use money or other property of a client for his own personal use.

5. Be a signer on a withdrawal from a reserve account of a client.

6. Except as otherwise permitted by the provisions of the court rules governing the legal profession, establish an attorney-client relationship with an attorney or law firm which represents a client that employs the community manager or with whom the community manager has a management agreement.

7. Provide or attempt to provide to a client a service concerning a type of property or service:

(a) That is outside his field of experience or competence without the assistance of a qualified authority unless the fact of his inexperience or incompetence is disclosed fully to the client and is not otherwise prohibited by law; or

(b) For which he is not properly licensed.

8. Intentionally apply a payment of an assessment from a unit's owner towards any fine, fee or other charge that is due.

9. Refuse to accept from a unit's owner payment of any assessment, fine, fee or other charge that is due because there is an outstanding payment due.

10. Collect any fees or other charges from a client not specified in the management agreement.

11. Accept any compensation, gift or any other item of material value as payment or consideration for a referral or in the furtherance or performance of his normal duties unless:

(a) Acceptance of the compensation, gift or other item of material value complies with the provisions of NRS 116.31185 or 116B.695 and all other applicable federal, state and local laws, regulations and ordinances; and

(b) Before acceptance of the compensation, gift or other item of material value, the community manager provides full disclosure to the client and the client consents, in writing, to the acceptance of the compensation, gift or other item of material value by the community manager.

Sec. 18.7. **NRS 116A.010 is hereby amended to read as follows:**

116A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 116A.020 to 116A.130, inclusive, ***and sections 18.1 and 18.2 of this act*** have the meanings ascribed to them in those sections.

Sec. 18.8. **NRS 116A.400 is hereby amended to read as follows:**

116A.400 1. Except as otherwise provided in this section, a person shall not act as a community manager unless the person holds a certificate.

2. ~~[The]~~ ***In addition to the standards of practice for community managers set forth in sections 18.5 and 18.6 of this act, the*** Commission shall by regulation ~~[provide for the]~~ ***adopt any additional*** standards of practice for community managers who hold certificates ***[.]*** ~~[.]~~ ***that the Commission deems appropriate and necessary.***

3. The Division may investigate any community manager who holds a certificate to ensure that the community manager is complying with the provisions of this chapter and chapters 116 and 116B of NRS and ~~[the]~~ ***any additional*** standards of practice adopted by the Commission.

4. In addition to any other remedy or penalty, if the Commission or a hearing panel, after notice and hearing, finds that a community manager who holds a certificate has violated any provision of this chapter or chapter 116 or 116B of NRS or any of the ***additional*** standards of practice adopted by the Commission, the Commission or the hearing panel may take appropriate disciplinary action against the community manager.

5. In addition to any other remedy or penalty, the Commission may:

(a) Refuse to issue a certificate to a person who has failed to pay money which the person owes to the Commission or the Division.

(b) Suspend, revoke or refuse to renew the certificate of a person who has failed to pay money which the person owes to the Commission or the Division.

6. The provisions of this section do not apply to:

(a) A financial institution that is engaging in an activity permitted by law.

(b) An attorney who is licensed to practice in this State and who is acting in that capacity.

(c) A trustee with respect to the property of the trust.

(d) A receiver with respect to property subject to the receivership.

(e) A member of an executive board or an officer of an association who is acting solely within the scope of his duties as a member of the executive board or an officer of the association.

Sec. 18.9. **NRS 116B.695 is hereby amended to read as follows:**

116B.695 1. Except as otherwise provided in subsection 2, a member of an executive board, an officer of an association or a community manager shall not solicit or accept any form of compensation, gratuity or other remuneration that:

(a) Would improperly influence or would appear to a reasonable person to improperly influence the decisions made by those persons; or

(b) Would result or would appear to a reasonable person to result in a conflict of interest for those persons.

2. Notwithstanding the provisions of subsection 1, a member of an executive board, an officer of an association or a community manager shall not accept, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value from:

(a) An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such attorney, law firm or vendor; or

(b) A declarant, an affiliate of a declarant or any person responsible for the construction of the applicable condominium hotel or association which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such declarant, affiliate or person.

3. An attorney, law firm or vendor, or any person working directly or indirectly for the attorney, law firm or vendor, shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board or an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.

4. A declarant, an affiliate of a declarant or any person responsible for the construction of a condominium hotel or association **[**,**]** shall not provide, directly or indirectly, any gifts, incentives, gratuities, rewards or other items of value to a member of the executive board or an officer of the association, the community manager or any person working for the community manager which total more than the amount established by the Commission by regulation, not to exceed $100 per year per such member, officer, community manager or person.

5. In addition to the limitations set forth in subsection 1, a community manager shall not solicit or accept any form of compensation, fee or other remuneration that is based, in whole or in part, on:

(a) The number or amount of fines imposed against or collected from units' owners or tenants or guests of units' owners pursuant to this chapter for violations of the governing documents of the association; or

(b) Any percentage or proportion of those fines.

6. The provisions of this section do not prohibit a community manager from being paid compensation, a fee or other remuneration under the terms of a contract between the community manager and an association if:

(a) The scope of the respective rights, duties and obligations of the parties under the contract comply with the standards of practice for community managers ***set forth in sections 18.5 and 18.6 of this act and any additional standards of practice*** adopted by the Commission ***by regulation*** pursuant to NRS 116A.400;

(b) The compensation, fee or other remuneration is being paid to the community manager for providing management of the association of the condominium hotel; and

(c) The compensation, fee or other remuneration is not structured in a way that would violate the provisions of subsection 1 or 5.

Sec. 19. **[**~~NRS 278A.170 is hereby amended to read as follows:~~

~~278A.170 The procedures for enforcing payment of an assessment for the maintenance of common open space provided in NRS 116.3116 [to 116.31168, inclusive,] are also available to any organization for the ownership and maintenance of common open space established other than under this chapter or chapter 116 of NRS and entitled to receive payments from owners of property for such maintenance under a recorded declaration of restrictions, deed restriction, restrictive covenant or equitable servitude which provides that any reasonable and ratable assessment thereon for the organization's costs of maintaining the common open space constitutes a lien or encumbrance upon the property.]~~ **(Deleted by amendment.)**

Sec. 20. ~~[NRS 649.020 is hereby amended to read as follows:~~

~~649.020 1. "Collection agency" means all persons engaging, directly or indirectly, and as a primary or a secondary object, business or pursuit, in the collection of or in soliciting or obtaining in any manner the payment of a claim owed or due or asserted to be owed or due to another.~~

~~2. "Collection agency" does not include any of the following unless they are conducting collection agencies:~~

~~(a) Individuals regularly employed on a regular wage or salary, in the capacity of credit men or in other similar capacity upon the staff of employees of any person not engaged in the business of a collection agency or making or attempting to make collections as an incident to the usual practices of their primary business or profession.~~

~~(b) Banks.~~

~~(c) Nonprofit cooperative associations.~~

~~(d) Unit owners' associations and the board members, officers, employees and units' owners of those associations when acting under the authority of and in accordance with chapter 116 or 116B of NRS and the governing documents of the association, except for those community managers included within the term "collection agency" pursuant to subsection 3.~~

~~(e) Abstract companies doing an escrow business.~~

~~(f) Duly licensed real estate brokers, except for those real estate brokers who are community managers included within the term "collection agency" pursuant to subsection 3.~~

~~(g) Attorneys and counselors at law licensed to practice in this State, so long as they are retained by their clients to collect or to solicit or obtain payment of such clients' claims in the usual course of the practice of their profession.~~

~~3. "Collection agency":~~

~~(a) Includes a community manager while engaged in the management of [a common interest community or the management of] an association of a condominium hotel if the community manager, or any employee, agent or affiliate of the community manager, performs or offers to perform any act associated with the foreclosure of a lien pursuant to NRS [116.31162 to 116.31168, inclusive, or] 116B.635 to 116B.660, inclusive; and~~

~~(b) Does not include any other community manager while engaged in the management of [a common interest community or the management of] an association of a condominium hotel.~~

~~4. As used in this section:~~

~~(a) "Community manager" has the meaning ascribed to it in NRS 116.023 or 116B.050.~~

~~(b) "Unit owners' association" has the meaning ascribed to it in NRS 116.011 or 116B.030.]~~ **(Deleted by amendment.)**

Sec. 21. ~~[NRS 116.21175, 116.31162, 116.31163, 116.311635, 116.31164, 116.31166 and 116.31168 are hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 22. This act becomes effective on July 1, 2009.

~~[~~

~~LEADLINES OF REPEALED SECTIONS~~

~~116.21175 Procedure for seeking confirmation from district court of certain amendments to declaration.~~

~~116.31162 Foreclosure of liens: Mailing of notice of delinquent assessment; recording of notice of default and election to sell; period during which unit's owner may pay lien to avoid foreclosure; limitations on type of lien that may be foreclosed.~~

~~116.31163 Foreclosure of liens: Mailing of notice of default and election to sell to certain interested persons.~~

~~116.311635 Foreclosure of liens: Providing notice of time and place of sale; service of notice of sale; contents of notice of sale; proof of service.~~

~~116.31164 Foreclosure of liens: Procedure for conducting sale; purchase of unit by association; execution and delivery of deed; use of proceeds of sale.~~

~~116.31166 Foreclosure of liens: Effect of recitals in deed; purchaser not responsible for proper application of purchase money; title vested in purchaser without equity or right of redemption.~~

~~116.31168 Foreclosure of liens: Requests by interested persons for notice of default and election to sell; right of association to waive default and withdraw notice or proceeding to foreclose.]~~

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 361.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 353.

SUMMARY—Makes changes relating to ~~[the destruction or deterioration of foreclosed or vacant units in]~~ common-interest communities. (BDR 10-940)

AN ACT relating to common-interest communities; providing that, under certain circumstances, a unit-owners' association may, without liability for trespass, enter the grounds of a vacant unit or a unit in foreclosure to abate a public nuisance or maintain the exterior of the unit; **providing that a unit-owners' association may request a copy of certain deeds of trust under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law assigns the responsibility for maintenance of a unit in a common-interest community to the owner of the unit, and maintenance of a common element in the community to the unit-owners' association. (NRS 116.3107) Existing law provides procedures for the executive board of the association to fine a unit's owner who fails to maintain his residence according to the governing documents. (NRS 116.31031)

Section 1 of this bill provides that the association may, without liability for trespass, enter on the grounds of a unit that is vacant or that is in the foreclosure process, whether vacant or not, to maintain the exterior of the unit or abate a public nuisance on the exterior of the unit if **, after notice and a hearing,** the unit's owner refuses or fails to do so. **Section 1** also provides that: (1) any amount of the costs for such maintenance or abatement which are not paid by the unit's owner will be a lien against the unit; and (2) the lien has priority over ~~[all]~~ **certain** other liens, claims, encumbrances and titles **, depending on whether the unit is a single-family detached dwelling,** except certain liens **recorded before the declaration for the association was recorded and certain liens** of assessments and ~~[general]~~ taxes.

Section 2 of this bill specifically authorizes a unit-owners' association to charge a unit's owner for the maintenance and abatement services provided pursuant to **section 1** of the bill. **(NRS 116.3102) Section 3** of this bill further provides that a lien for such maintenance and abatement services has priority over a first security interest on the unit under certain circumstances ~~[.]~~ **if the unit is a single-family detached dwelling. (NRS 116.3116)**

Section 4 of this bill provides that a unit-owners' association may record in the office of the county recorder a request for a trustee or other authorized person to provide the association with a copy of the deed after the sale of a unit upon a deed of trust for any unit within the association. (NRS 107.090)

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

Section 1. Chapter 116 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A ~~*[lending institution which]*~~ ***person who holds a security interest in a unit must provide the association with*** ~~*[the]*~~ ***his contact information*** ~~*[of the lending institution, including any department of the lending institution*~~

~~which handles residential mortgages,]~~ as soon as reasonably practicable , but not later than 30 days after the ~~[lending institution is aware that:]~~ person:

(a) ~~[A person has filed]~~ Files an action for recovery of a debt secured by the unit pursuant to NRS 40.430; or

(b) ~~[A person has recorded]~~ Records or has recorded on his behalf a notice of a breach of obligation secured by the unit and the election to sell or have the unit sold pursuant to NRS 107.080 . ~~[; or~~

~~(c) The association or another authorized person has executed and caused to be recorded a notice of default and election to sell the unit pursuant to NRS 116.31162.]~~

2. If an action or notice described in subsection 1 has been filed or recorded regarding a unit and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association , including its employees, agents and community manager, may , but is not required to, enter the grounds of the unit, whether or not the unit is vacant, to take any of the following actions if the unit's owner refuses or fails to ~~[do so:]~~ take any action or comply with any requirement imposed on the unit's owner within the time specified by the association as a result of the hearing:

(a) Maintain the exterior of the unit in accordance with the governing documents, including, without limitation, any provisions governing landscaping, standing water or snow removal.

(b) Remove or abate a public nuisance on the exterior of the unit which:

(1) Is visible from any common area of the community ~~[,]~~ or public streets;

(2) Threatens the health or safety of the residents of the common-interest community;

(3) Results in blighting or deterioration of the unit or surrounding area; and

(4) Adversely affects the use and enjoyment of nearby units.

3. If a unit is vacant and the association has provided the unit's owner with notice and an opportunity for a hearing in the manner provided in NRS 116.31031, the association , including its employees, agents and community manager, may enter the grounds of the unit to maintain the exterior of the unit or abate a public nuisance as described in subsection 2 if the unit's owner refuses or fails to do so.

4. The association may order that the costs of any maintenance or abatement conducted pursuant to subsection 2 or 3, including, without limitation, any inspection fees, notification and collection costs and interests, be charged against the unit. The association has a lien on the unit for any unpaid amount of the charges.

5. A lien described in subsection 4 ~~[.~~

~~(a) Bears~~ ***on any unit bears interest from the date that the charges become due at a rate determined pursuant to NRS 17.130 until the charges and all interest due is paid . ~~;~~***

~~(b) Is coequal with the most recent lien on the unit which secures the payment of any assessments and which has priority over all security interests described in paragraph (b) of subsection 2 of NRS 116.3116;~~

~~(c) Is not subject to extinguishment by the sale of the unit because of the nonpayment by the first lien holder; and~~

~~(d) Is~~

6. A lien described in subsection 4 on a unit which is a single-family detached dwelling is prior and superior to all liens, claims, encumbrances and titles other than the liens ~~of assessments described in paragraph (b) and general taxes.~~ described in paragraphs (a) and (c) of subsection 2 of NRS 116.3116.

~~6.~~ 7. A person who purchases or acquires the unit at a foreclosure sale pursuant to NRS 40.430 ~~,~~ ~~;~~ or a trustee's sale pursuant to NRS 107.080 ~~for a foreclosure sale pursuant to NRS 116.31162 to 116.31168, inclusive,~~ shall maintain the exterior of the unit in accordance with the governing documents of the association. Units may only be removed from an association in accordance with the governing documents of the association pursuant to this chapter.

~~7.~~ 8. Notwithstanding any other provision of law, an association, its directors or members of the executive board , ~~or~~ employees , agents or community manager who enter the grounds of a unit pursuant to this section are not liable for trespass.

9. As used in this section, "vacant" means a unit:

(a) Which appears unoccupied;

(b) On which the owner has failed to maintain the exterior to the standards set forth in the governing documents the association; and

(c) On which the owner has failed to pay assessments for more than 30 days.

Sec. 2. NRS 116.3102 is hereby amended to read as follows:

116.3102 1. Except as otherwise provided in subsection 2, and subject to the provisions of the declaration, the association may do any or all of the following:

(a) Adopt and amend bylaws, rules and regulations.

(b) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from the units' owners.

(c) Hire and discharge managing agents and other employees, agents and independent contractors.

(d) Institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more units' owners on matters affecting the common-interest community.

(e) Make contracts and incur liabilities.

(f) Regulate the use, maintenance, repair, replacement and modification of common elements.

(g) Cause additional improvements to be made as a part of the common elements.

(h) Acquire, hold, encumber and convey in its own name any right, title or interest to real estate or personal property, but:

(1) Common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to NRS 116.3112; and

(2) Part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to NRS 116.3112.

(i) Grant easements, leases, licenses and concessions through or over the common elements.

(j) Impose and receive any payments, fees or charges for the use, rental or operation of the common elements, other than limited common elements described in subsections 2 and 4 of NRS 116.2102, and for services provided to the units' owners ~~[.]~~ ***, including, without limitation, any services provided pursuant to section 1 of this act.***

(k) Impose charges for late payment of assessments.

(l) Impose construction penalties when authorized pursuant to NRS 116.310305.

(m) Impose reasonable fines for violations of the governing documents of the association only if the association complies with the requirements set forth in NRS 116.31031.

(n) Impose reasonable charges for the preparation and recordation of any amendments to the declaration or any statements of unpaid assessments, and impose reasonable fees, not to exceed the amounts authorized by NRS 116.4109, for preparing and furnishing the documents and certificate required by that section.

(o) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance.

(p) Assign its right to future income, including the right to receive assessments for common expenses, but only to the extent the declaration expressly so provides.

(q) Exercise any other powers conferred by the declaration or bylaws.

(r) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association.

(s) Direct the removal of vehicles improperly parked on property owned or leased by the association, as authorized pursuant to NRS 487.038, or improperly parked on any road, street, alley or other thoroughfare within the common-interest community in violation of the governing documents. In addition to complying with the requirements of NRS 487.038 and any requirements in the governing documents, if a vehicle is improperly parked as described in this paragraph, the association must post written notice in a

conspicuous place on the vehicle or provide oral or written notice to the owner or operator of the vehicle at least 48 hours before the association may direct the removal of the vehicle, unless the vehicle:

(1) Is blocking a fire hydrant, fire lane or parking space designated for the handicapped; or

(2) Poses an imminent threat of causing a substantial adverse effect on the health, safety or welfare of the units' owners or residents of the common-interest community.

(t) Exercise any other powers necessary and proper for the governance and operation of the association.

2. The declaration may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Sec. 3. NRS 116.3116 is hereby amended to read as follows:

116.3116 1. The association has a lien on a unit for any construction penalty that is imposed against the unit's owner pursuant to NRS 116.310305, any assessment levied against that unit or any fines imposed against the unit's owner from the time the construction penalty, assessment or fine becomes due. Unless the declaration otherwise provides, any penalties, fees, charges, late charges, fines and interest charged pursuant to paragraphs (j) to (n), inclusive, of subsection 1 of NRS 116.3102 are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

2. A lien under this section is prior to all other liens and encumbrances on a unit except:

(a) Liens and encumbrances recorded before the recordation of the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes or takes subject to;

(b) A first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent or, in a cooperative, the first security interest encumbering only the unit's owner's interest and perfected before the date on which the assessment sought to be enforced became delinquent; and

(c) Liens for real estate taxes and other governmental assessments or charges against the unit or cooperative.

➥ The lien is also prior to all security interests described in paragraph (b) to the extent of ***any charges incurred by the association on a unit which is a single-family detached dwelling pursuant to section 1 of this act and to the extent of*** the assessments for common expenses based on the periodic budget adopted by the association pursuant to NRS 116.3115 which would have become due in the absence of acceleration during the 6 months immediately preceding institution of an action to enforce the lien. This subsection does not

affect the priority of mechanics' or materialmen's liens, or the priority of liens for other assessments made by the association.

3. Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same property, those liens have equal priority.

4. Recording of the declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for assessment under this section is required.

5. A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within 3 years after the full amount of the assessments becomes due.

6. This section does not prohibit actions to recover sums for which subsection 1 creates a lien or prohibit an association from taking a deed in lieu of foreclosure.

7. A judgment or decree in any action brought under this section must include costs and reasonable attorney's fees for the prevailing party.

8. The association, upon written request, shall furnish to a unit's owner a statement setting forth the amount of unpaid assessments against the unit. If the interest of the unit's owner is real estate or if a lien for the unpaid assessments may be foreclosed under NRS 116.31162 to 116.31168, inclusive, the statement must be in recordable form. The statement must be furnished within 10 business days after receipt of the request and is binding on the association, the executive board and every unit's owner.

9. In a cooperative, upon nonpayment of an assessment on a unit, the unit's owner may be evicted in the same manner as provided by law in the case of an unlawful holdover by a commercial tenant, and:

(a) In a cooperative where the owner's interest in a unit is real estate under NRS 116.1105, the association's lien may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

(b) In a cooperative where the owner's interest in a unit is personal property under NRS 116.1105, the association's lien:

(1) May be foreclosed as a security interest under NRS 104.9101 to 104.9709, inclusive; or

(2) If the declaration so provides, may be foreclosed under NRS 116.31162 to 116.31168, inclusive.

Sec. 4. **NRS 107.090 is hereby amended to read as follows:**

107.090 1. As used in this section, "person with an interest" means any person who has or claims any right, title or interest in, or lien or charge upon, the real property described in the deed of trust, as evidenced by any document or instrument recorded in the office of the county recorder of the county in which any part of the real property is situated.

2. A person with an interest or any other person who is or may be held liable for any debt secured by a lien on the property desiring a copy of a notice of default or notice of sale under a deed of trust with power of sale upon real property may at any time after recordation of the deed of trust

record in the office of the county recorder of the county in which any part of the real property is situated an acknowledged request for a copy of the notice of default or of sale. The request must state the name and address of the person requesting copies of the notices and identify the deed of trust by stating the names of the parties thereto, the date of recordation, and the book and page where it is recorded.

3. The trustee or person authorized to record the notice of default shall, within 10 days after the notice of default is recorded and mailed pursuant to NRS 107.080, cause to be deposited in the United States mail an envelope, registered or certified, return receipt requested and with postage prepaid, containing a copy of the notice, addressed to:

(a) Each person who has recorded a request for a copy of the notice; and

(b) Each other person with an interest whose interest or claimed interest is subordinate to the deed of trust.

4. The trustee or person authorized to make the sale shall, at least 20 days before the date of sale, cause to be deposited in the United States mail an envelope, registered or certified, return receipt requested and with postage prepaid, containing a copy of the notice of time and place of sale, addressed to each person described in subsection 3.

5. ***An association may record in the office of the county recorder of the county in which a unit governed by the association is situated an acknowledged request for a copy of the deed upon sale of the unit pursuant to a deed of trust. A request recorded by an association must include, without limitation:***

(a) A legal description of the unit or the assessor's parcel number of the unit;

(b) The name and address of the association; and

(c) A statement that the request is made by an association.

6. A request recorded by an association pursuant to subsection 5 regarding a unit supersedes all previous requests recorded by the association pursuant to subsection 5 regarding the unit.

7. If a trustee or person authorized to record a notice of default records the notice default for a unit regarding which an association has recorded a request pursuant to subsection 5, the trustee or authorized person shall mail to the association a copy of the deed upon the sale of the unit pursuant to a deed of trust within 15 days after the trustee records the deed upon the sale of the unit.

8. No request recorded pursuant to the provisions of subsection 2 ***or 5*** affects the title to real property ~~[.]~~ ***, and failure to mail a copy of the deed upon the sale of the unit after a request is made by an association pursuant to subsection 5 does not affect the title to real property.***

9. As used in this section:

(a) "Association" has the meaning ascribed to it in NRS 116.011.

(b) "Unit" has the meaning ascribed to it in NRS 116.093.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 471 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 474.

Bill read second time.

The following amendment was proposed by the Committee on Corrections, Parole, and Probation:

Amendment No. 363.

AN ACT relating to parole; requiring mandatory release on parole for certain prisoners who were under the age of 16 years when the offense was committed and who meet certain requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the mandatory release on parole of certain prisoners 12 months before the expiration of their maximum term if they have not previously been released on parole and are not otherwise ineligible for parole. (NRS 213.1215) This bill requires mandatory parole of prisoners who were sentenced to life imprisonment with the possibility of parole and who were less than 16 years of age at the time of the offense if they have: (1) served the minimum term of their sentence; (2) completed **a program of general education or** an industrial or ~~[a]~~ vocational **training** program; (3) ~~[completed a program of general education;]~~ **not been identified by the Department of Corrections as a member of a group posing a security threat;** and (4) not committed ~~[,]~~ **a major violation of the regulations of the Department of Corrections and not been housed in disciplinary segregation** within the immediately preceding ~~[12]~~ **24** months **.** ~~[, a serious infraction of the regulations of the Department of Corrections.]~~

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

Section 1. ~~[Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*Notwithstanding any other provision of law, a prisoner who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time that he committed the offense for which he was imprisoned must be released on parole if:*~~

~~*1. The prisoner has served the minimum term of imprisonment imposed by the court;*~~

~~*2. The prisoner has completed an industrial or vocational training program;*~~

~~*3. The prisoner has completed a program of general education; and*~~

~~*4. The prisoner has not committed, within the immediately preceding 12 months, a serious infraction of the regulations of the Department of Corrections.]*~~ **(Deleted by amendment.)**

Sec. 2. ~~[NRS 213.107 is hereby amended to read as follows:~~

~~213.107 As used in NRS 213.107 to 213.157, inclusive, *and section 1 of this act,* unless the context otherwise requires:~~

~~1. "Board" means the State Board of Parole Commissioners.~~

~~2. "Chief" means the Chief Parole and Probation Officer.~~

~~3. "Division" means the Division of Parole and Probation of the Department of Public Safety.~~

~~4. "Residential confinement" means the confinement of a person convicted of a crime to his place of residence under the terms and conditions established by the Board.~~

~~5. "Sex offender" means any person who has been or is convicted of a sexual offense.~~

~~6. "Sexual offense" means:~~

~~(a) A violation of NRS 200.366, subsection 4 of NRS 200.400, NRS 200.710, 200.720, subsection 2 of NRS 200.730, NRS 201.180, paragraph (a) or subparagraph (2) of paragraph (b) of subsection 1 of NRS 201.195, NRS 201.230 or 201.450, or paragraph (a) or (b) of subsection 4 or paragraph (a) or (b) of subsection 5 of NRS 201.560;~~

~~(b) An attempt to commit any offense listed in paragraph (a); or~~

~~(c) An act of murder in the first or second degree, kidnapping in the first or second degree, false imprisonment, burglary or invasion of the home if the act is determined to be sexually motivated at a hearing conducted pursuant to NRS 175.547.~~

~~7. "Standards" means the objective standards for granting or revoking parole or probation which are adopted by the Board or the Chief.~~**]** **(Deleted by amendment.)**

Sec. 3. **NRS 213.1215 is hereby amended to read as follows:**

213.1215 1. Except as otherwise provided in ~~[subsections 3, 4 and 5]~~ ***this section*** and in cases where a consecutive sentence is still to be served, if a prisoner sentenced to imprisonment for a term of 3 years or more:

(a) Has not been released on parole previously for that sentence; and

(b) Is not otherwise ineligible for parole,

➥ he must be released on parole 12 months before the end of his maximum term, as reduced by any credits he has earned to reduce his sentence pursuant to chapter 209 of NRS.

2. Except as otherwise provided in this section, a prisoner who was sentenced to life imprisonment with the possibility of parole and who was less than 16 years of age at the time that he committed the offense for which he was imprisoned must be released on parole if:

(a) The prisoner has served the minimum term of imprisonment imposed by the court;

(b) The prisoner has completed a program of general education or an industrial or vocational training program;

(c) The prisoner has not been identified as a member of a group that poses a security threat pursuant to the procedures for identifying security threats established by the Department of Corrections; and

(d) The prisoner has not, within the immediately preceding 24 months:

(1) Committed a major violation of the regulations of the Department of Corrections; or

(2) Been housed in disciplinary segregation.

3. The Board shall prescribe any conditions necessary for the orderly conduct of the parolee upon his release.

~~[2.]~~ ***4.*** Each parolee so released must be supervised closely by the Division, in accordance with the plan for supervision developed by the Chief pursuant to NRS 213.122.

~~[3.]~~ ***5.*** If the Board finds, at least 2 months before a prisoner would otherwise be paroled pursuant to subsection 1 ~~[,]~~ ***or 2*** that there is a reasonable probability that the prisoner will be a danger to public safety while on parole, the Board may require the prisoner to serve the balance of his sentence and not grant the parole provided for in subsection 1 ~~[,]~~ ***or 2.*** If, pursuant to this subsection, the Board does not grant the parole provided for in subsection 1 ~~[,]~~ ***or 2,*** the Board shall provide to the prisoner a written statement of its reasons for denying parole.

~~[4.]~~ ***6.*** If the prisoner is the subject of a lawful request from another law enforcement agency that he be held or detained for release to that agency, the prisoner must not be released on parole, but released to that agency.

~~[5.]~~ ***7.*** If the Division has not completed its establishment of a program for the prisoner's activities during his parole pursuant to this section, the prisoner must be released on parole as soon as practicable after the prisoner's program is established.

~~[6.]~~ ***8.*** For the purposes of this section, the determination of the 12-month period before the end of a prisoner's term must be calculated without consideration of any credits he may have earned to reduce his sentence had he not been paroled.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 489.

Bill read second time.

The following amendment was proposed by the Committee on Education:

Amendment No. 334.

AN ACT relating to education; revising provisions relating to sponsorship of charter schools; creating the Nevada Charter School Institute for

sponsorship of charter schools; prescribing the membership, duties and powers of the Institute; repealing the Subcommittee on Charter Schools of the State Board of Education; making appropriations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the formation of charter schools and authorizes school districts, the State Board of Education and colleges and universities within the Nevada System of Higher Education to sponsor charter schools. (NRS 386.500-386.610) **Sections 18-27** of this bill create the Nevada Charter School Institute and prescribe the membership of the Charter School Institute. **Section 30** of this bill removes the authority of the State Board of Education to sponsor charter schools and authorizes the Nevada Charter School Institute to sponsor charter schools. (NRS 386.515) **Sections 35 and 41** of this bill authorize the Nevada Charter School Institute to adopt regulations relating to charter schools and eliminates the authority of the Department of Education and the State Board of Education to adopt regulations relating to charter schools. (NRS 386.540, 386.578) **Section 2 of this bill transfers the duty to prepare an annual report of accountability information of all the charter schools in this State from the board of trustees of a school district to the Nevada Charter School Institute. (NRS 385.347) Sections 50 and 51** of this bill require the Director of the Nevada Charter School Institute and other persons employed by the Charter School Institute to be appointed or hired, as appropriate, beginning on July 1, 2009, and certain other dates. **Section 52** of this bill requires the members of the Charter School Institute to be appointed on or before January 1, 2010. **Section 55** of this bill transfers the sponsorship of all State Board-sponsored charter schools to the Nevada Charter School Institute beginning with the 2010-2011 school year.

Section 47 of this bill repeals the Subcommittee on Charter Schools of the State Board of Education. (NRS 386.507)

Section 48 of this bill appropriates money to the Account for the Nevada Charter School Institute created by **section 27** of this bill for the establishment and operation of the Nevada Charter School Institute for the 2009-2011 biennium.

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

Section 1. NRS 385.005 is hereby amended to read as follows:

385.005 1. The Legislature reaffirms its intent that public education in the State of Nevada is essentially a matter for local control by local school districts. The provisions of this title are intended to reserve to the boards of trustees of local school districts within this State such rights and powers as are necessary to maintain control of the education of the children within their respective districts. These rights and powers may only be limited by other specific provisions of law.

2. The responsibility of establishing a statewide policy of integration or desegregation of public schools is reserved to the Legislature. The responsibility for establishing a local policy of integration or desegregation of public schools consistent with the statewide policy established by the Legislature is delegated to the respective boards of trustees of local school districts and to the governing body of each charter school.

3. The State Board shall, and ***the Nevada Charter School Institute,*** each board of trustees of a local school district, the governing body of each charter school and any other school officer may, advise the Legislature at each regular session of any recommended legislative action to ensure high standards of equality of educational opportunity for all children in the State of Nevada.

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

385.347 1. The board of trustees of each school district in this State, in cooperation with associations recognized by the State Board as representing licensed educational personnel in the district, shall adopt a program providing for the accountability of the school district to the residents of the district and to the State Board for the quality of the schools and the educational achievement of the pupils in the district **.** ~~**[**, including, without limitation, pupils enrolled in charter schools in the school district. The board of trustees of each school district shall report the information required by subsection 2 for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the**~~ **]** [State Board**]** ~~*[Nevada Charter School Institute* and the charter schools sponsored by a college or university within the Nevada System of Higher Education.**]**~~

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

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

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

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

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

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

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

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

(III) Pupils with disabilities;

(IV) Pupils who are limited English proficient; and

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

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

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

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

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

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

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

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

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

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

(1) The percentage of teachers who are:

(I) Providing instruction pursuant to NRS 391.125;

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

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

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

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

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

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

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

(5) For each elementary school:

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

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

(e) The total expenditure per pupil for each school in the district and the district as a whole **.** ~~[, including, without limitation, each charter school in the district.]~~ If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school district shall use that statewide program in complying with this paragraph. If

a statewide program is not available, each school district shall use its own financial analysis program in complying with this paragraph.

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

~~(1) Any~~ ***any*** special programs for pupils at an individual school ~~[~~**.** ~~, and~~

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

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

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

(2) For each elementary school, middle school and junior high school in the district, ~~[including, without limitation, each charter school in the district that provides instruction to pupils enrolled in a grade level other than high school,]~~ information that compares the attendance of the pupils enrolled in the school with the attendance of pupils throughout the district and throughout this State. The information required by this subparagraph must be provided in consultation with the Department to ensure the accuracy of the comparison.

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

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

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

(3) Withdraw from school to attend another school.

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

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

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

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

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

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

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

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

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

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

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

(r) A compilation of the programs of remedial study that are purchased in whole or in part with money received from this State, for each school in the district and the district as a whole . ~~[, including, without limitation, each charter school sponsored by the district.]~~ The compilation must include:

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

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

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

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

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

(1) A standard high school diploma, reported separately for pupils who received the diploma pursuant to:

(I) Paragraph (a) of subsection 1 of NRS 389.805; and

(II) Paragraph (b) of subsection 1 of NRS 389.805.

(2) An adjusted diploma.

(3) A certificate of attendance.

(v) For each school in the district and the district as a whole, ~~[including, without limitation, each charter school in the district,]~~ the number and percentage of pupils who failed to pass the high school proficiency examination.

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

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

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

(z) Information on whether each public school in the district ~~[, including, without limitation, each charter school in the district,]~~ has made adequate yearly progress, including, without limitation:

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

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

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

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

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

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

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

(dd) For each school in the district and the district as a whole, ~~[including, without limitation, each charter school in the district,]~~ information on pupils enrolled in career and technical education, including, without limitation:

(1) The number of pupils enrolled in a course of career and technical education;

(2) The number of pupils who completed a course of career and technical education;

(3) The average daily attendance of pupils who are enrolled in a program of career and technical education;

(4) The annual rate of pupils who dropped out of school and were enrolled in a program of career and technical education before dropping out;

(5) The number and percentage of pupils who completed a program of career and technical education and who received a standard high school diploma, an adjusted diploma or a certificate of attendance; and

(6) The number and percentage of pupils who completed a program of career and technical education and who did not receive a high school diploma because the pupils failed to pass the high school proficiency examination.

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

3. ***The Nevada Charter School Institute shall, on or before August 15 of each year, prepare an annual report of accountability of charter schools in this State concerning the accountability information prescribed by the Department pursuant to this section. The Department shall prescribe by regulation the information that must be prepared by the Nevada Charter School Institute, which must include, without limitation, the information contained in paragraphs (a) to (ee), inclusive, of subsection 2, as applicable for charter schools.***

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

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

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

~~[4.]~~ ***5.*** The annual report of accountability prepared pursuant to subsection 2 ***or 3, as applicable,*** must:

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

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

~~[5.]~~ ***6.*** The Superintendent of Public Instruction shall:

(a) Prescribe forms for the reports required pursuant to ~~[subsection]~~ ***subsections*** 2 ***and 3*** and provide the forms to the respective school districts ~~[.]~~ ***and the Nevada Charter School Institute.***

(b) Provide statistical information and technical assistance to the school districts ***and the Nevada Charter School Institute*** to ensure that the reports provide comparable information with respect to each school in each district ***, each charter school*** and among the districts ***and charter schools*** throughout this State.

(c) Consult with a representative of the:

(1) Nevada State Education Association;

(2) Nevada Association of School Boards;

(3) Nevada Association of School Administrators;

(4) Nevada Parent Teacher Association;

(5) Budget Division of the Department of Administration; and

(6) Legislative Counsel Bureau,

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

~~[6.]~~ ***7.*** The Superintendent of Public Instruction may consult with representatives of parent groups other than the Nevada Parent Teacher Association concerning the program and consider any advice or recommendations submitted by the representatives with respect to the program.

~~[7.]~~ ***8.*** On or before August 15 of each year ~~[, the]~~ ***:***

(a) The board of trustees of each school district shall submit to each advisory board to review school attendance created in the county pursuant to NRS 392.126 the information required in paragraph (g) of subsection 2.

~~[8.]~~ ***(b) The Nevada Charter School Institute shall submit to each advisory board to review school attendance created in a county pursuant to NRS 392.126 the information regarding the records of the attendance and truancy of pupils enrolled in each charter school located in that county, if any, in accordance with the regulations prescribed by the Department pursuant to subsection 3.***

9. On or before August 15 of each year, the board of trustees of each school district ***and the Nevada Charter School Institute*** shall:

(a) Provide written notice that the report required pursuant to subsection 2 ***or 3, as applicable,*** is available on the Internet website maintained by the school district ~~[,]~~ ***or the Nevada Charter School Institute,*** if any, or otherwise provide written notice of the availability of the report. The written notice must be provided to the:

(1) Governor;

(2) State Board;

(3) Department;

(4) ~~*[Nevada Charter School Institute;*~~

~~*(5)]*~~ Committee; and

(5) ~~*[(6)]*~~ Bureau.

(b) Provide for public dissemination of the annual report of accountability prepared pursuant to subsection 2 ***or 3, as applicable,*** in the manner set forth in 20 U.S.C. § 6311(h)(2)(E) by posting a copy of the report on the Internet

website maintained by the school district ~~[.]~~ ***or the Nevada Charter School Institute,*** if any. If a school district does not maintain a website, the district shall otherwise provide for public dissemination of the annual report by providing a copy of the report to the schools in the school district, ~~[including, without limitation, each charter school in the district,]~~ the residents of the district ~~[.]~~ and the parents and guardians of pupils enrolled in schools in the district ~~. [, including, without limitation, each charter school in the district.~~

~~9.]~~ ***If the Nevada Charter School Institute does not maintain a website, the Nevada Charter School Institute shall otherwise provide for public dissemination of the annual report by providing a copy of the report to each charter school in this State and the parents and guardians of pupils enrolled in each charter school in this State.***

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

~~10.]~~ ***or 3, as applicable.***

11. As used in this section:

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

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

Sec. 3. NRS 385.349 is hereby amended to read as follows:

385.349 1. The board of trustees of each school district ***and the Nevada Charter School Institute*** shall prepare a summary of the annual report of accountability prepared pursuant to NRS 385.347 on the form prescribed by the Department pursuant to subsection 3 or an expanded form, as applicable. The summary must include, without limitation:

(a) ~~[The]~~ ***If prepared by a school district, the*** information set forth in subsection 1 of NRS 385.34692, reported for the school district as a whole and for each school within the school district;

(b) ***If prepared by the Nevada Charter School Institute, the information set forth in subsection 1 of NRS 385.34692, reported for the charter schools in this State as a whole and for each charter school in this State;***

(c) Information on the involvement of parents and legal guardians in the education of their children; and

~~[(c)]~~ ***(d)*** Other information required by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must:

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

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

3. The Department shall, in consultation with the Bureau ~~,~~ ~~[and]~~ the school districts ~~[.]~~ ***and the Nevada Charter School Institute,*** prescribe a form that contains the basic information required by subsection 1. The board

of trustees of a school district ***or the Nevada Charter School Institute*** may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

4. On or before September 7 of each year, the board of trustees of each school district ***and the Nevada Charter School Institute*** shall:

(a) Submit the summary in an electronic format to the:

(1) Governor;

(2) State Board;

(3) Department;

(4) ~~*[Nevada Charter School Institute;*~~

~~*(5)]*~~ Committee;

(5) ~~*[(6)]*~~ Bureau; and

(6) ~~*[(7)]*~~ Schools within the school district ~~[.]~~ ***or charter schools, as applicable.***

(b) Provide for the public dissemination of the summary ***of the school district or the Nevada Charter School Institute, as applicable,*** by posting a copy of the summary on the Internet website maintained by the school district ~~[,]~~ ***or the Nevada Charter School Institute,*** if any. If a school district ***or the Nevada Charter School Institute*** does not maintain a website, the district ***or the Nevada Charter School Institute*** shall otherwise provide for public dissemination of the summary. The board of trustees of each school district ***and the Nevada Charter School Institute*** shall ensure that the parents and guardians of pupils enrolled in the school district ***or each charter school, as applicable,*** have sufficient information concerning the availability of the summary, including, without limitation, information that describes how to access the summary on the Internet website maintained by the school district ~~[,]~~ ***or the Nevada Charter School Institute,*** if any. Upon the request of a parent or legal guardian, the school district ***or the Nevada Charter School Institute, as applicable,*** shall provide the parent or legal guardian with a written copy of the summary.

~~[5. The board of trustees of each school district shall report the information required by this section for each charter school that is located within the school district, regardless of the sponsor of the charter school. The information for charter schools must be reported separately and must denote the charter schools sponsored by the school district, the charter schools sponsored by the]~~ ~~[~~State Board~~]~~ ~~*[Nevada Charter School Institute*~~ ~~and the charter schools sponsored by a college or university within the Nevada System of Higher Education.]~~

Sec. 3.3. **NRS 385.357 is hereby amended to read as follows:**

385.357 1. The principal of each school, including, without limitation, each charter school, shall, in consultation with the employees of the school, prepare a plan to improve the achievement of the pupils enrolled in the school.

2. The plan developed pursuant to subsection 1 must include:

(a) A review and analysis of the data pertaining to the school upon which the report required pursuant to subsection 2 ***or 3*** of NRS 385.347 ***, as applicable,*** is based and a review and analysis of any data that is more recent than the data upon which the report is based.

(b) The identification of any problems or factors at the school that are revealed by the review and analysis.

(c) Strategies based upon scientifically based research, as defined in 20 U.S.C. § 7801(37), that will strengthen the core academic subjects, as defined in NRS 389.018.

(d) Policies and practices concerning the core academic subjects which have the greatest likelihood of ensuring that each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361 who are enrolled in the school will make adequate yearly progress and meet the minimum level of proficiency prescribed by the State Board.

(e) Annual measurable objectives, consistent with the annual measurable objectives established by the State Board pursuant to NRS 385.361, for the continuous and substantial progress by each group of pupils identified in paragraph (b) of subsection 1 of that section who are enrolled in the school to ensure that each group will make adequate yearly progress and meet the level of proficiency prescribed by the State Board.

(f) Strategies, consistent with the policy adopted pursuant to NRS 392.457 by the board of trustees of the school district in which the school is located, to promote effective involvement by parents and families of pupils enrolled in the school in the education of their children.

(g) As appropriate, programs of remedial education or tutoring to be offered before and after school, during the summer, or between sessions if the school operates on a year-round calendar for pupils enrolled in the school who need additional instructional time to pass or to reach a level considered proficient.

(h) Strategies to improve the academic achievement of pupils enrolled in the school, including, without limitation, strategies to:

(1) Instruct pupils who are not achieving to their fullest potential, including, without limitation:

(I) The curriculum appropriate to improve achievement;

(II) The manner by which the instruction will improve the achievement and proficiency of pupils on the examinations administered pursuant to NRS 389.015 and 389.550; and

(III) An identification of the instruction and curriculum that is specifically designed to improve the achievement and proficiency of pupils in each group identified in paragraph (b) of subsection 1 of NRS 385.361;

(2) Increase the rate of attendance of pupils and reduce the number of pupils who drop out of school;

(3) Integrate technology into the instructional and administrative programs of the school;

(4) Manage effectively the discipline of pupils; and

(5) Enhance the professional development offered for the teachers and administrators employed at the school to include the activities set forth in 20 U.S.C. § 7801(34) and to address the specific needs of pupils enrolled in the school, as deemed appropriate by the principal.

(i) An identification, by category, of the employees of the school who are responsible for ensuring that the plan is carried out effectively.

(j) In consultation with the school district or governing body, as applicable, an identification, by category, of the employees of the school district or governing body, if any, who are responsible for ensuring that the plan is carried out effectively or for overseeing and monitoring whether the plan is carried out effectively.

(k) In consultation with the Department, an identification, by category, of the employees of the Department, if any, who are responsible for overseeing and monitoring whether the plan is carried out effectively.

(l) For each provision of the plan, a timeline for carrying out that provision, including, without limitation, a timeline for monitoring whether the provision is carried out effectively.

(m) For each provision of the plan, measurable criteria for determining whether the provision has contributed toward improving the academic achievement of pupils, increasing the rate of attendance of pupils and reducing the number of pupils who drop out of school.

(n) The resources available to the school to carry out the plan. If this State has a financial analysis program that is designed to track educational expenditures and revenues to individual schools, each school shall use that statewide program in complying with this paragraph. If a statewide program is not available, each school shall use the financial analysis program used by the school district in which the school is located in complying with this paragraph.

(o) A summary of the effectiveness of appropriations made by the Legislature that are available to the school to improve the academic achievement of pupils and programs approved by the Legislature to improve the academic achievement of pupils.

(p) A budget of the overall cost for carrying out the plan.

3. In addition to the requirements of subsection 2, if a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623, the plan must comply with 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto.

4. Except as otherwise provided in subsection 5, the principal of each school shall, in consultation with the employees of the school:

(a) Review the plan prepared pursuant to this section annually to evaluate the effectiveness of the plan; and

(b) Based upon the evaluation of the plan, make revisions, as necessary, to ensure that the plan is designed to improve the academic achievement of pupils enrolled in the school.

5. If a school has been designated as demonstrating need for improvement pursuant to NRS 385.3623 and a support team has been established for the school, the support team shall review the plan and make revisions to the most recent plan for improvement of the school pursuant to NRS 385.3741. If the school is a Title I school that has been designated as demonstrating need for improvement, the support team established for the school shall, in making revisions to the plan, work in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity responsible for creating the support team, outside experts.

6. On or before November 1 of each year, the principal of each school or the support team established for the school, as applicable, shall submit the plan or the revised plan, as applicable, to:

(a) If the school is a public school of the school district, the superintendent of schools of the school district.

(b) If the school is a charter school, the governing body of the charter school.

7. If a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623, the superintendent of schools of the school district or the governing body, as applicable, shall carry out a process for peer review of the plan or the revised plan, as applicable, in accordance with 20 U.S.C. § 6316(b)(3)(E) and the regulations adopted pursuant thereto. Not later than 45 days after receipt of the plan, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan, as applicable, if it meets the requirements of 20 U.S.C. § 6316(b)(3) and the regulations adopted pursuant thereto and the requirements of this section. The superintendent of schools of the school district or the governing body, as applicable, may condition approval of the plan or the revised plan, as applicable, in the manner set forth in 20 U.S.C. § 6316(b)(3)(B) and the regulations adopted pursuant thereto. The State Board shall prescribe the requirements for the process of peer review, including, without limitation, the qualifications of persons who may serve as peer reviewers.

8. If a school is designated as demonstrating exemplary achievement, high achievement or adequate achievement, or if a school that is not a Title I school is designated as demonstrating need for improvement, not later than 45 days after receipt of the plan or the revised plan, as applicable, the superintendent of schools of the school district or the governing body, as applicable, shall approve the plan or the revised plan if it meets the requirements of this section.

9. On or before December 15 of each year, the principal of each school or the support team established for the school, as applicable, shall submit the final plan or the final revised plan, as applicable, to the:

(a) Superintendent of Public Instruction;

(b) Governor;

(c) State Board;

(d) Department;

(e) Committee;

(f) Bureau; and

(g) Board of trustees of the school district in which the school is located ~~[.]~~ ***or the Nevada Charter School Institute, as applicable.***

10. A plan for the improvement of a school must be carried out expeditiously, but not later than January 1 after approval of the plan pursuant to subsection 7 or 8, as applicable.

Sec. 3.5. **NRS 385.358 is hereby amended to read as follows:**

385.358 1. The principal of each public school, including, without limitation, each charter school, shall prepare a summary of accountability information on the form prescribed by the Department pursuant to subsection 3 or an expanded form, as applicable. The summary must include, without limitation:

(a) The information set forth in subsection 1 of NRS 385.34692, reported only for the school;

(b) Information on the involvement of parents and legal guardians in the education of their children; and

(c) Such other information as is directed by the Superintendent of Public Instruction in consultation with the Bureau.

2. The summary prepared pursuant to subsection 1 must be presented in an understandable and uniform format and, to the extent practicable, provided in a language that parents will likely understand.

3. The Department shall, in consultation with the Bureau , ~~[and]~~ the school districts ~~[.]~~ ***and the Nevada Charter School Institute,*** prescribe a form that contains the basic information required by subsection 1. The principal of a school may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

4. On or before September 7 of each year:

(a) The principal of each public school shall submit the summary in electronic format to the:

(1) Department;

(2) Bureau; and

(3) Board of trustees of the school district in which the school is located ~~[.]~~ ***or, if the school is a charter school, to the Nevada Charter School Institute.***

(b) The school district in which the school is located shall ensure that the summary is posted on the Internet website maintained by the school, if any, or the Internet website maintained by the school district, if any. ***The Nevada Charter School Institute shall ensure that each summary of a charter school is posted on the Internet website maintained by the charter school, if any, or the Internet website maintained by the Institute, if any.*** If the summary is not posted on the website of the school , ~~[or]~~ the school district

~~[,]~~ ***or the Nevada Charter School Institute, as applicable,*** the school district ***or the Nevada Charter School Institute, as applicable,*** shall otherwise provide for public dissemination of the summary.

(c) The principal of each public school shall ensure that the parents and legal guardians of the pupils enrolled in the school have sufficient information concerning the availability of the summary, including, without limitation, information that describes how to access the summary on the Internet website, if any, and how a parent or guardian may otherwise access the summary.

(d) The principal of each public school shall provide a written copy of the summary to each parent and legal guardian of a pupil enrolled in the school.

Sec. 3.7. **NRS 385.359 is hereby amended to read as follows:**

385.359 1. The Bureau shall contract with a person or entity to:

(a) Review and analyze, in accordance with the standards prescribed by the Committee pursuant to subsection 2 of NRS 218.5354, the:

(1) Annual report of accountability prepared by:

(I) The State Board pursuant to NRS 385.3469; ~~[and]~~

(II) The board of trustees of each school district pursuant to ***subsection 2 of*** NRS 385.347 ~~[.]~~ ***; and***

(III) The Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347.

(2) Plan to improve the achievement of pupils prepared by:

(I) The State Board pursuant to NRS 385.34691;

(II) The board of trustees of each school district pursuant to NRS 385.348; and

(III) Each school pursuant to NRS 385.357 identified by the Bureau for review, if any.

(b) Submit a written report to and consult with the State Board and the Department regarding any methods by which the State Board may improve the accuracy of the report of accountability required pursuant to NRS 385.3469 and the plan to improve the achievement of pupils required pursuant to NRS 385.34691, and the purposes for which the report and plan to improve are used.

(c) Submit a written report to and consult with each school district ***and the Nevada Charter School Institute*** regarding any methods by which the district ***or the Nevada Charter School Institute*** may improve the accuracy of the report required pursuant to subsection 2 ***or 3*** of NRS 385.347 ***, as applicable,*** and the plan to improve the achievement of pupils required pursuant to NRS 385.348, and the purposes for which the report and plan to improve are used.

(d) If requested by the Bureau, submit a written report to and consult with individual schools identified by the Bureau regarding any methods by which the school may improve the accuracy of the information required to be reported for the school pursuant to subsection 2 ***or 3*** of NRS 385.347 ***, as***

applicable, and the plan to improve the achievement of pupils required pursuant to NRS 385.357.

(e) Submit written reports and any recommendations to the Committee and the Bureau concerning:

(1) The effectiveness of the provisions of NRS 385.3455 to 385.391, inclusive, in improving the accountability of the schools of this State;

(2) The status of each school district that is designated as demonstrating need for improvement pursuant to NRS 385.377 and each school that is designated as demonstrating need for improvement pursuant to NRS 385.3623; and

(3) Any other matter related to the accountability of the public schools of this State, as deemed necessary by the Bureau.

2. The consultant with whom the Bureau contracts to perform the duties required pursuant to subsection 1 must possess the experience and knowledge necessary to perform those duties, as determined by the Committee.

Sec. 4. NRS 385.3613 is hereby amended to read as follows:

385.3613 1. Except as otherwise provided in subsection 2, on or before June 15 of each year, the Department shall determine whether each public school is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

2. On or before June 30 of each year, the Department shall determine whether each public school that operates on a schedule other than a traditional 9-month schedule is making adequate yearly progress, as defined by the State Board pursuant to NRS 385.361.

3. The determination pursuant to subsection 1 or 2, as applicable, for a public school, including, without limitation, a charter school sponsored by the board of trustees of the school district, must be made in consultation with the board of trustees of the school district in which the public school is located. If a charter school is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education, the Department shall make a determination for the charter school in consultation with the ~~[State Board]~~ ***Charter School Institute*** or the institution ***within the Nevada System of Higher Education*** that sponsors the charter school, as applicable. The determination made for each school must be based only upon the information and data for those pupils who are enrolled in the school for a full academic year. On or before June 15 or June 30 of each year, as applicable, the Department shall transmit:

(a) Except as otherwise provided in paragraph (b) or (c), the determination made for each public school to the board of trustees of the school district in which the public school is located.

(b) To the ~~[State Board]~~ ***Nevada Charter School Institute*** the determination made for each charter school that is sponsored by the ~~[State Board.]~~ ***Institute.***

(c) The determination made for the charter school to the institution that sponsors the charter school if a charter school is sponsored by a college or university within the Nevada System of Higher Education.

4. Except as otherwise provided in this subsection, the Department shall determine that a public school has failed to make adequate yearly progress if any group identified in paragraph (b) of subsection 1 of NRS 385.361 does not satisfy the annual measurable objectives established by the State Board pursuant to that section. To comply with 20 U.S.C. § 6311(b)(2)(I) and the regulations adopted pursuant thereto, the State Board shall prescribe by regulation the conditions under which a school shall be deemed to have made adequate yearly progress even though a group identified in paragraph (b) of subsection 1 of NRS 385.361 did not satisfy the annual measurable objectives of the State Board.

5. In addition to the provisions of subsection 4, the Department shall determine that a public school has failed to make adequate yearly progress if:

(a) The number of pupils enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils enrolled in the school who were required to take the examinations; or

(b) Except as otherwise provided in subsection 6, for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361, the number of pupils in the group enrolled in the school who took the examinations administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable, is less than 95 percent of all pupils in that group enrolled in the school who were required to take the examinations.

6. If the number of pupils in a particular group who are enrolled in a public school is insufficient to yield statistically reliable information:

(a) The Department shall not determine that the school has failed to make adequate yearly progress pursuant to paragraph (b) of subsection 5 based solely upon that particular group.

(b) The pupils in such a group must be included in the overall count of pupils enrolled in the school who took the examinations.

➥ The State Board shall prescribe the mechanism for determining the number of pupils that must be in a group for that group to yield statistically reliable information.

7. If an irregularity in testing administration or an irregularity in testing security occurs at a school and the irregularity invalidates the test scores of pupils, those test scores must be included in the scores of pupils reported for the school, the attendance of those pupils must be counted towards the total number of pupils who took the examinations and the pupils must be included in the total number of pupils who were required to take the examinations.

8. As used in this section:

(a) ”Irregularity in testing administration” has the meaning ascribed to it in NRS 389.604.

(b) "Irregularity in testing security" has the meaning ascribed to it in NRS 389.608.

Sec. 5. NRS 385.362 is hereby amended to read as follows:

385.362 1. If a public school fails to make adequate yearly progress for 1 year:

(a) Except as otherwise provided in ~~[paragraph (b),]~~ ***paragraphs (b) and (c),*** the board of trustees of the school district in which the school is located shall ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto. For a charter school sponsored by the school district, the board of trustees shall provide the technical assistance to the charter school in conjunction with the governing body of the charter school.

(b) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall ensure, in conjunction with the governing body of the charter school, that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(c) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall ensure, in conjunction with the governing body of the charter school, that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

2. If a public school fails to make adequate yearly progress for 1 year, the principal of the school shall ensure that the plan to improve the achievement of pupils enrolled in the school is reviewed, revised and approved in accordance with NRS 385.357.

Sec. 6. NRS 385.366 is hereby amended to read as follows:

385.366 1. Based upon the information received from the Department pursuant to NRS 385.3613, the board of trustees of each school district shall, on or before July 1 of each year, issue a preliminary designation for each public school in the school district in accordance with the criteria set forth in NRS 385.3623, excluding charter schools sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education. The board of trustees shall make preliminary designations for all charter schools that are sponsored by the board of trustees. The Department shall make preliminary designations for all charter schools that are sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** and all charter schools sponsored by a college or university within the Nevada System of Higher Education. The initial designation of a school as demonstrating need for improvement must be based upon 2 consecutive years of data and information for that school.

2. Before making a final designation for a school, the board of trustees of the school district or the Department, as applicable, shall provide the school an opportunity to review the data upon which the preliminary designation is based and to present evidence in the manner set forth in 20 U.S.C. §

6316(b)(2) and the regulations adopted pursuant thereto. If the school is a public school of the school district or a charter school sponsored by the board of trustees, the board of trustees of the school district shall, in consultation with the Department, make a final determination concerning the designation for the school on August 1. If the school is a charter school sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education, the Department shall make a final determination concerning the designation for the school on August 1.

3. On or before August 1 of each year, the Department shall provide written notice of the determinations made pursuant to NRS 385.3613 and the final designations made pursuant to this section as follows:

(a) The determinations and final designations made for all schools in this State to the:

(1) Governor;

(2) State Board;

(3) Committee; and

(4) Bureau.

(b) The determinations and final designations made for all schools within a school district to the:

(1) Superintendent of schools of the school district; and

(2) Board of trustees of the school district.

(c) The determination and final designation made for each school to the principal of the school.

(d) The determination and final designation made for each charter school sponsored by the Nevada Charter School Institute to the Institute.

Sec. 7. NRS 385.3661 is hereby amended to read as follows:

385.3661 1. Except as otherwise provided in subsection 2, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(b) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance

in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

3. In addition to the requirements of subsection 1 or 2, as applicable, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 and the provisions of NRS 385.3693, 385.3721 or 385.3745 do not apply:

(a) Except as otherwise provided in ~~[paragraph (b),]~~ ***paragraphs (b) and (c),*** the board of trustees of the school district shall provide school choice to the parents and guardians of pupils enrolled in the school, including, without limitation, a charter school sponsored by the school district, in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(b) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.***

(c) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

Sec. 8. NRS 385.3693 is hereby amended to read as follows:

385.3693 1. Except as otherwise provided in subsection 2, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years, the board of trustees of the school district shall:

(a) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(b) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

2. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

Sec. 9. NRS 385.372 is hereby amended to read as follows:

385.372 1. In addition to the requirements of NRS 385.3693, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 2 consecutive years for failing to make adequate yearly progress:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) Except as otherwise provided in subsection 2, provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

(2) ***Sponsored by the Nevada Charter School Institute, the Institute shall work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.***

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall work

cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto.

~~[(3)]~~ ***(4)*** Except as otherwise provided in subsection 3, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of supplemental educational services for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3721 apply to the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of supplemental educational services for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3721 apply to the charter school as if the delay never occurred.

Sec. 10. NRS 385.3721 is hereby amended to read as follows:

385.3721 1. If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years, the support team established for the school pursuant to this section shall carry out the requirements of NRS 385.3741 and 385.3742.

2. Except as otherwise provided in subsection 3, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(2) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(b) The Department shall establish a support team for the school, with the membership prescribed pursuant to NRS 385.374.

3. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the charter school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of

the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

~~[(d)]~~ ***(e)*** The Department shall establish a support team for the school, with the membership prescribed pursuant to NRS 385.374.

Sec. 11. NRS 385.3741 is hereby amended to read as follows:

385.3741 1. Each support team established for a public school pursuant to NRS 385.3721 shall:

(a) Review and analyze the operation of the school, including, without limitation, the design and operation of the instructional program of the school.

(b) Review and analyze the data pertaining to the school upon which the report required pursuant to subsection 2 ***or 3*** of NRS 385.347 ***, as applicable,*** is based and review and analyze any data that is more recent than the data upon which the report is based.

(c) Review the most recent plan to improve the achievement of the school's pupils.

(d) Review the information concerning the educational involvement accords provided to the support team pursuant to NRS 392.4575 and the information concerning the reports provided to the support team pursuant to NRS 392.456.

(e) Identify and investigate the problems and factors at the school that contributed to the designation of the school as demonstrating need for improvement.

(f) Assist the school in developing recommendations for improving the performance of pupils who are enrolled in the school.

(g) Except as otherwise provided in this paragraph, make recommendations to the board of trustees of the school district, the State Board and the Department concerning additional assistance for the school in carrying out the plan for improvement of the school. For a charter school sponsored by the ~~[State Board,]~~ ***Nevada Charter School Institute,*** the support team shall make the recommendations to the ~~[State Board]~~ ***Institute*** and the Department. For a charter school sponsored by a college or university within the Nevada System of Higher Education, the support team shall make the recommendations to the sponsor, the State Board and the Department.

(h) In accordance with its findings pursuant to this section and NRS 385.3742, submit, on or before November 1, written revisions to the most recent plan to improve the achievement of the school's pupils for approval pursuant to NRS 385.357. The written revisions must:

(1) Comply with NRS 385.357;

(2) If the school is a Title I school, be developed in consultation with parents and guardians of pupils enrolled in the school and, to the extent deemed appropriate by the entity that created the support team, outside experts;

(3) Include the data and findings of the support team that provide support for the revisions;

(4) Set forth goals, objectives, tasks and measures for the school that are:

(I) Designed to improve the achievement of the school's pupils;

(II) Specific;

(III) Measurable; and

(IV) Conducive to reliable evaluation;

(5) Set forth a timeline to carry out the revisions;

(6) Set forth priorities for the school in carrying out the revisions; and

(7) Set forth the name and duties of each person who is responsible for carrying out the revisions.

(i) Except as otherwise provided in this paragraph, work cooperatively with the board of trustees of the school district in which the school is located, the employees of the school, and the parents and guardians of pupils enrolled in the school to carry out and monitor the plan for improvement of the school. If a charter school is sponsored by the ~~[State Board, the Department]~~ ***Nevada Charter School Institute, the Institute*** shall assist the school with carrying out and monitoring the plan for improvement of the school. If a charter school is sponsored by a college or university within the Nevada System of Higher Education, ~~[that]~~ ***the*** institution ***that sponsors the charter school*** shall assist the school with carrying out and monitoring the plan for improvement of the school.

(j) Prepare a quarterly progress report in the format prescribed by the Department and:

(1) Submit the progress report to the Department.

(2) Distribute copies of the progress report to each employee of the school for review.

(k) In addition to the requirements of this section, if the support team is established for a Title I school, carry out the requirements of 20 U.S.C. § 6317(a)(5).

2. A school support team may require the school for which the support team was established to submit plans, strategies, tasks and measures that, in the determination of the support team, will assist the school in improving the achievement and proficiency of pupils enrolled in the school.

3. The Department shall prescribe a concise quarterly progress report for use by each support team in accordance with paragraph (j) of subsection 1.

Sec. 11.5. **NRS 385.3742 is hereby amended to read as follows:**

385.3742 1. In addition to the duties prescribed in NRS 385.3741, a support team established for a school shall prepare an annual written report that includes:

(a) Information concerning the most recent plan to improve the achievement of the school's pupils, including, without limitation, an evaluation of:

(1) The appropriateness of the plan for the school; and

(2) Whether the school has achieved the goals and objectives set forth in the plan;

(b) The written revisions to the plan to improve the achievement of the school's pupils submitted by the support team pursuant to NRS 385.3741;

(c) A summary of each program for remediation, if any, purchased for the school with money that is available from the Federal Government, this state and the school district in which the school is located, including, without limitation:

(1) The name of the program;

(2) The date on which the program was purchased and the date on which the program was carried out by the school;

(3) The percentage of personnel at the school who were trained regarding the use of the program;

(4) The satisfaction of the personnel at the school with the program; and

(5) An evaluation of whether the program has improved the academic achievement of the pupils enrolled in the school who participated in the program;

(d) An analysis of the problems and factors at the school which contributed to the designation of the school as demonstrating need for improvement, including, without limitation, issues relating to:

(1) The financial resources of the school;

(2) The administrative and educational personnel of the school;

(3) The curriculum of the school;

(4) The facilities available at the school, including the availability and accessibility of educational technology; and

(5) Any other factors that the support team believes contributed to the designation of the school as demonstrating need for improvement; and

(e) Other information concerning the school, including, without limitation:

(1) The results of the pupils who are enrolled in the school on the examinations that are administered pursuant to NRS 389.550 or the high school proficiency examination, as applicable;

(2) Records of the attendance and truancy of pupils who are enrolled in the school;

(3) The transiency rate of pupils who are enrolled in the school;

(4) A description of the number of years that each teacher has provided instruction at the school and the rate of turnover of teachers and other educational personnel employed at the school;

(5) A description of the participation of parents and legal guardians in the educational process and other activities relating to the school;

(6) A description of each source of money for the remediation of pupils who are enrolled in the school; and

(7) ~~[A]~~ ***Except as otherwise provided in subparagraph (8), a*** description of the disciplinary problems of the pupils who are enrolled in the school, including, without limitation, the information contained in paragraphs (k) to (n), inclusive, of subsection 2 of NRS 385.347.

(8) For a charter school, a description of the disciplinary problems of the pupils enrolled in the charter school as reported in the annual report of accountability prepared by the Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347.

2. On or before November 1, the support team ***of a school other than a charter school*** shall submit a copy of the final written report to the:

(a) Principal of the school;

(b) Board of trustees of the school district in which the school is located;

(c) Superintendent of schools of the school district in which the school is located;

(d) Department; and

(e) Bureau.

➥ The support team shall make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the school.

3. On or before November 1, the support team for a charter school shall submit a copy of the final written report to the:

(a) Principal of the school;

(b) Nevada Charter School Institute;

(c) Department; and

(d) Bureau.

➥ The support team shall make the written report available, upon request, to each parent or legal guardian of a pupil who is enrolled in the charter school.

Sec. 12. NRS 385.3743 is hereby amended to read as follows:

385.3743 1. In addition to the requirements of NRS 385.3721, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

(2) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a

provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

(3) Except as otherwise provided in subsection 2, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(2) ***Sponsored by the Nevada Charter School Institute, the Institute shall:***

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall:

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, take corrective action pursuant to 20 U.S.C. § 6316(b)(7) and the regulations adopted pursuant thereto.

~~[(3)]~~ ***(4)*** Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of corrective action for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3745 apply as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of corrective action for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. 6316(b)(7)(D).

If the charter school fails to make adequate yearly progress during the period of the delay, the provisions of NRS 385.3745 apply as if the delay never occurred.

Sec. 13. NRS 385.3744 is hereby amended to read as follows:

385.3744 1. Except as otherwise provided in subsection 3, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 3 consecutive years for failing to make adequate yearly progress, the support team established for the school shall consider whether corrective action is appropriate for the school. If the support team determines that corrective action is appropriate, the support team shall make a recommendation for corrective action for the school, including, without limitation, the type of corrective action that is recommended from the list of corrective actions authorized pursuant to subsection 2. The recommendation must be submitted to:

(a) For a school of the school district or a charter school sponsored by the board of trustees of the school district, the board of trustees.

(b) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute.***

(c) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department.

2. Regardless of whether a support team recommends corrective action for a school, ***the Nevada Charter School Institute may, for a charter school sponsored by the Institute,*** the Department may, for a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take one or more of the following corrective actions for the school:

(a) Develop and carry out a new curriculum at the school, including the provision of appropriate professional development relating to the new curriculum.

(b) Significantly decrease the managerial authority of the employees at the school.

(c) Extend the school year or the school day.

3. The ***Nevada Charter School Institute, the*** Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the ***Nevada Charter School Institute, the*** Department or the board of trustees, as applicable, may proceed with corrective action as if the delay never occurred.

Sec. 14. NRS 385.3745 is hereby amended to read as follows:

385.3745 1. If a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years, the

support team established for the school pursuant to NRS 385.3721 shall carry out the requirements of NRS 385.3741, 385.3742 and 385.3744, as applicable.

2. Except as otherwise provided in subsection 3, if a public school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) The board of trustees of the school district shall:

(1) Provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382; and

(2) Ensure that the school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(b) The Department shall continue a support team for the school.

3. If a charter school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) The governing body of the charter school shall provide notice of the designation to the parents and guardians of pupils enrolled in the school on the form prescribed by the Department pursuant to NRS 385.382.

(b) For a charter school sponsored by the board of trustees of a school district, the board of trustees shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

(c) ***For a charter school sponsored by the Nevada Charter School Institute, the Institute shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.***

(d) For a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall, in conjunction with the governing body of the charter school, ensure that the charter school receives technical assistance in the manner set forth in 20 U.S.C. § 6316(b)(4) and the regulations adopted pursuant thereto.

~~[(d)]~~ ***(e)*** The Department shall continue a support team for the charter school.

Sec. 15. NRS 385.3746 is hereby amended to read as follows:

385.3746 1. In addition to the requirements of NRS 385.3745, if a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years:

(a) Except as otherwise provided in paragraph (b), the board of trustees of the school district shall:

(1) Provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto;

(2) Provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law; and

(3) Except as otherwise provided in subsection 2, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(b) If the school is a charter school:

(1) Sponsored by the board of trustees of a school district, the board of trustees shall:

(I) Provide school choice to the parents and guardians of pupils enrolled in the charter school in accordance with 20 U.S.C. § 6316(b)(1); and

(II) Except as otherwise provided in subsection 3, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(2) ***Sponsored by the Nevada Charter School Institute, the Institute shall:***

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

(3) Sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, the Department shall:

(I) Work cooperatively with the board of trustees of the school district in which the charter school is located to provide school choice to the parents and guardians of pupils enrolled in the school in accordance with 20 U.S.C. § 6316(b)(1) and the regulations adopted pursuant thereto; and

(II) Except as otherwise provided in subsection 3, proceed with a plan for restructuring the school if required by 20 U.S.C. § 6316(b)(8) and the regulations adopted pursuant thereto.

~~[(3)]~~ ***(4)*** Regardless of the sponsor, the governing body of the charter school shall provide supplemental educational services in accordance with 20 U.S.C. § 6316(e) and the regulations adopted pursuant thereto from a provider approved pursuant to NRS 385.384, unless a waiver is granted pursuant to that provision of federal law.

2. The board of trustees of a school district shall grant a delay from the imposition of a plan for restructuring for a school for a period not to exceed 1 year if the school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the board of trustees shall proceed with a plan for restructuring the school as if the delay never occurred.

3. The sponsor of a charter school shall grant a delay from the imposition of a plan for restructuring for the charter school for a period not to exceed 1 year if the charter school qualifies for a delay pursuant to 20 U.S.C. § 6316(b)(7)(D). If the charter school fails to make adequate yearly progress during the period of the delay, the Department shall proceed with a plan for restructuring the charter school as if the delay never occurred.

4. Before the board of trustees of a school district ***, the Nevada Charter School Institute*** or the Department proceeds with a plan for restructuring, the board of trustees ***, the Institute*** or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees ***, the Institute*** or the Department, as applicable, will develop a plan for restructuring the school;

(b) An opportunity to comment before the plan to restructure is developed; and

(c) An opportunity to participate in the development of the plan to restructure.

Sec. 16. NRS 385.376 is hereby amended to read as follows:

385.376 1. Except as otherwise provided in subsection 3, if a public school that is not a Title I school is designated as demonstrating need for improvement pursuant to NRS 385.3623 for 4 or more consecutive years for failure to make adequate yearly progress, the support team for the school shall:

(a) If corrective action was not taken against the school pursuant to NRS 385.3744, consider whether corrective action is appropriate for the school.

(b) If corrective action was taken against the school pursuant to NRS 385.3744, consider whether further corrective action is appropriate or whether consequences or sanctions, or both, are appropriate for the school.

2. Regardless of whether a support team recommends corrective action or consequences or sanctions for a school, ***the Nevada Charter School Institute may, for a charter school sponsored by the Institute,*** the Department may, for a charter school sponsored by ~~[the State Board or by]~~ a college or university within the Nevada System of Higher Education, and the board of trustees of a school district may, for a school of the school district or a charter school sponsored by the board of trustees, take corrective action as set forth in NRS 385.3744 or proceed with consequences or sanctions, or both, as prescribed by the State Board pursuant to NRS 385.361.

3. The ***Nevada Charter School Institute, the*** Department or the board of trustees of a school district, as applicable, shall grant a delay from the imposition of corrective action or restructuring pursuant to this section for a school for a period not to exceed 1 year if the school qualifies for a delay in the manner set forth in 20 U.S.C. § 6316(b)(7)(D). If the school fails to make adequate yearly progress during the period of the delay, the ***Nevada Charter***

School Institute, the Department or the board of trustees, as applicable, may proceed with corrective action or with consequences or sanctions, or both, for the school, as appropriate, as if the delay never occurred.

4. Before the board of trustees ***, the Nevada Charter School Institute*** or the Department proceeds with consequences or sanctions, the board of trustees ***, the Charter School Institute*** or the Department, as applicable, shall provide to the administrators, teachers and other educational personnel employed at that school, and parents and guardians of pupils enrolled in the school:

(a) Notice that the board of trustees ***, the Charter School Institute*** or the Department, as applicable, will proceed with consequences or sanctions for the school;

(b) An opportunity to comment before the consequences or sanctions are carried out; and

(c) An opportunity to participate in the development of the consequences or sanctions.

Sec. 16.5. **NRS 385.620 is hereby amended to read as follows:**

385.620 The Advisory Council shall:

1. Review the policy of parental involvement adopted by the State Board and the policy of parental involvement adopted by the board of trustees of each school district pursuant to NRS 392.457;

2. Review the information relating to communication with and participation of parents that is included in the annual report of accountability for each school district pursuant to paragraph (j) of subsection 2 of NRS 385.347 ~~[.]~~ ***and similar information included in the annual report of accountability prepared by the Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347.***

3. Review any effective practices carried out in individual school districts to increase parental involvement and determine the feasibility of carrying out those practices on a statewide basis;

4. Review any effective practices carried out in other states to increase parental involvement and determine the feasibility of carrying out those practices in this State;

5. Identify methods to communicate effectively and provide outreach to parents and legal guardians of pupils who have limited time to become involved in the education of their children for various reasons, including, without limitation, work schedules, single-parent homes and other family obligations;

6. Identify the manner in which the level of parental involvement affects the performance, attendance and discipline of pupils;

7. Identify methods to communicate effectively with and provide outreach to parents and legal guardians of pupils who are limited English proficient;

8. Determine the necessity for the appointment of a statewide parental involvement coordinator or a parental involvement coordinator in each school district, or both;

9. On or before July 1 of each year, submit a report to the Legislative Committee on Education describing the activities of the Advisory Council and any recommendations for legislation; and

10. On or before February 1 of each odd-numbered year, submit a report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature describing the activities of the Advisory Council and any recommendations for legislation.

Sec. 17. Chapter 386 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 27, inclusive, of this act.

Sec. 18. ***As used in NRS 386.500 to 386.610, inclusive, and sections 18 to 27, inclusive, of this act, the words and terms defined in NRS 386.500 and sections 19 and 20 of this act have the meanings ascribed to them in those sections.***

Sec. 19. ***"Charter School Institute" means the Nevada Charter School Institute created by section 21 of this act.***

Sec. 20. ***"Director" means the Director of the Charter School Institute.***

Sec. 21. ***1. The Nevada Charter School Institute, consisting of seven members, is hereby created. The membership of the Charter School Institute consists of:***

(a) Two members appointed by the Governor in accordance with subsection 2;

(b) Two members, who must not be Legislators, appointed by the Majority Leader of the Senate in accordance with subsection 2;

(c) Two members, who must not be Legislators, appointed by the Speaker of the Assembly in accordance with subsection 2; and

(d) One member appointed by an association of charter schools pursuant to subsection 3.

2. The Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall ensure that the membership of the Charter School Institute:

(a) Includes persons with specific knowledge of:

(1) Issues relating to elementary and secondary education;

(2) School finance;

(3) Management practices;

(4) Assessments required in elementary and secondary education;

(5) Educational technology; and

(6) The laws and regulations applicable to charter schools; and

(b) Insofar as practicable, reflects the ethnic and geographical diversity of this State.

3. The Charter School Institute shall establish a list of associations of charter schools that operate within this State and designate the order in which such associations may appoint a member to the Charter School

Institute. Except as otherwise provided in subsection 5, an association may not appoint more than one member to the Charter School Institute unless each association designated pursuant to this subsection has had an opportunity to make an appointment.

4. Each member of the Charter School Institute must be a resident of this State.

5. After the initial terms, the term of each member of the Charter School Institute is 3 years, commencing on July 1 of the year he is appointed. A vacancy in the membership of the Charter School Institute must be filled for the remainder of the unexpired term in the same manner as the original appointment. A member shall continue to serve on the Charter School Institute until his successor is appointed.

6. The members of the Charter School Institute shall select a Chairman and Vice Chairman from among its members. After the initial selection of those officers, each of those officers holds the position for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the Chairmanship or Vice Chairmanship, the vacancy must be filled in the same manner as the original selection for the remainder of the unexpired term.

7. Each member of the Charter School Institute is entitled to receive:

(a) For each day or portion of a day during which he attends a meeting of the Institute, a salary of not more than $80, as fixed by the Institute; and

(b) For each day or portion of a day during which he attends a meeting of the Institute or is otherwise engaged in the business of the Institute, the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 22. ***1. The members of the Charter School Institute shall meet throughout the year at the times and places specified by a call of the Chairman or a majority of the members.***

2. Four members of the Charter School Institute constitute a quorum, and a quorum may exercise all the power and authority conferred on the Charter School Institute.

Sec. 23. ***1. The Charter School Institute shall appoint a Director of the Institute for a term of 3 years. The Charter School Institute may remove the Director from office for inefficiency, neglect of duty, malfeasance in office or for other just cause.***

2. A vacancy must be filled by the Charter School Institute for the remainder of the unexpired term.

3. The Director is in the unclassified service of the State.

Sec. 24. ***The Director shall not pursue any other business or occupation or hold any other office of profit without the approval of the Charter School Institute.***

Sec. 25. ***The Director shall:***

1. Execute, direct and supervise all administrative, technical and procedural activities of the Charter School Institute in accordance with the policies prescribed by the Charter School Institute;

2. Organize the Charter School Institute in a manner which will assure efficient operation and service of the Charter School Institute;

3. Serve as the Executive Secretary of the Charter School Institute; and

4. Perform such other duties as are prescribed by law or the Charter School Institute.

Sec. 26. ***The Charter School Institute may employ such persons as it deems necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 18 to 27, inclusive, of this act.***

Sec. 27. ***1. The Account for the Nevada Charter School Institute is hereby created in the State General Fund, to be administered by the Director.***

2. The interest and income earned on the money in the Account must be credited to the Account.

3. The money in the Account may be used only for the establishment and maintenance of the Charter School Institute.

4. Any money remaining in the Account at the end of a fiscal year does not revert to the State General Fund, and the balance in the Account must be carried forward to the next fiscal year.

5. The Director may accept gifts, grants and bequests. Any money from gifts, grants and bequests must be deposited in the Account and may be expended in accordance with the terms and conditions of the gift or grant, or in accordance with this section.

Sec. 28. NRS 386.500 is hereby amended to read as follows:

386.500 ~~[For the purposes of NRS 386.500 to 386.610, inclusive, a]~~ ***A*** pupil is "at risk" if he has an economic or academic disadvantage such that he requires special services and assistance to enable him to succeed in educational programs. The term includes, without limitation, pupils who are members of economically disadvantaged families, pupils who are limited English proficient, pupils who are at risk of dropping out of high school and pupils who do not meet minimum standards of academic proficiency. The term does not include a pupil with a disability.

Sec. 29. NRS 386.508 is hereby amended to read as follows:

386.508 There is hereby created a school district to be designated as the Charter School District for ~~[State Board Sponsored]~~ ***Charter School Institute-Sponsored*** Charter Schools and Nevada System of Higher Education-Sponsored Charter Schools. The School District comprises only those charter schools that are sponsored by the ~~[State Board]~~ ***Charter School Institute*** or sponsored by a college or university within the Nevada System of Higher Education. The ~~[State Board]~~ ***Charter School Institute*** is hereby deemed the Board of Trustees of the School District. The School District is created for the sole purpose of providing local educational agency status to the School District for purposes of federal law governing charter schools.

Sec. 30. NRS 386.515 is hereby amended to read as follows:

386.515 1. The board of trustees of a school district may apply to the Department for authorization to sponsor charter schools within the school district. An application must be approved by the Department before the board of trustees may sponsor a charter school. Not more than 180 days after receiving approval to sponsor charter schools, the board of trustees shall provide public notice of its ability to sponsor charter schools and solicit applications for charter schools.

2. The ~~[State Board]~~ ***Charter School Institute*** shall sponsor charter schools whose applications have been approved by the ~~[State Board]~~ ***Charter School Institute*** pursuant to NRS 386.525. Except as otherwise provided by specific statute, if the ~~[State Board]~~ ***Charter School Institute*** sponsors a charter school, the ~~[State Board or the Department]~~ ***Charter School Institute*** is responsible for the evaluation, monitoring and oversight of the charter school.

3. A college or university within the Nevada System of Higher Education may sponsor charter schools.

Sec. 31. NRS 386.520 is hereby amended to read as follows:

386.520 1. A committee to form a charter school must consist of at least three teachers, as defined in subsection 4. In addition to the teachers who serve, the committee may consist of:

(a) Members of the general public;

(b) Representatives of nonprofit organizations and businesses; or

(c) Representatives of a college or university within the Nevada System of Higher Education.

➥ A majority of the persons described in paragraphs (a), (b) and (c) who serve on the committee must be residents of this State at the time that the application to form the charter school is submitted to the Department.

2. Before a committee to form a charter school may submit an application to the board of trustees of a school district, the ~~[Subcommittee on Charter Schools, the State Board]~~ ***Charter School Institute*** or a college or university within the Nevada System of Higher Education, it must submit the application to the Department. The application must include all information prescribed by the ~~[Department]~~ ***Charter School Institute*** by regulation and:

(a) A written description of how the charter school will carry out the provisions of NRS 386.500 to 386.610, inclusive ~~[.]~~ ***, and sections 18 to 27, inclusive, of this act.***

(b) A written description of the mission and goals for the charter school. A charter school must have as its stated purpose at least one of the following goals:

(1) Improving the opportunities for pupils to learn;

(2) Encouraging the use of effective methods of teaching;

(3) Providing an accurate measurement of the educational achievement of pupils;

(4) Establishing accountability of public schools;

(5) Providing a method for public schools to measure achievement based upon the performance of the schools; or

(6) Creating new professional opportunities for teachers.

(c) The projected enrollment of pupils in the charter school.

(d) The proposed dates of enrollment for the charter school.

(e) The proposed system of governance for the charter school, including, without limitation, the number of persons who will govern, the method of selecting the persons who will govern and the term of office for each person.

(f) The method by which disputes will be resolved between the governing body of the charter school and the sponsor of the charter school.

(g) The proposed curriculum for the charter school and, if applicable to the grade level of pupils who are enrolled in the charter school, the requirements for the pupils to receive a high school diploma, including, without limitation, whether those pupils will satisfy the requirements of the school district in which the charter school is located for receipt of a high school diploma.

(h) The textbooks that will be used at the charter school.

(i) The qualifications of the persons who will provide instruction at the charter school.

(j) Except as otherwise required by NRS 386.595, the process by which the governing body of the charter school will negotiate employment contracts with the employees of the charter school.

(k) A financial plan for the operation of the charter school. The plan must include, without limitation, procedures for the audit of the programs and finances of the charter school and guidelines for determining the financial liability if the charter school is unsuccessful.

(l) A statement of whether the charter school will provide for the transportation of pupils to and from the charter school. If the charter school will provide transportation, the application must include the proposed plan for the transportation of pupils. If the charter school will not provide transportation, the application must include a statement that the charter school will work with the parents and guardians of pupils enrolled in the charter school to develop a plan for transportation to ensure that pupils have access to transportation to and from the charter school.

(m) The procedure for the evaluation of teachers of the charter school, if different from the procedure prescribed in NRS 391.3125. If the procedure is different from the procedure prescribed in NRS 391.3125, the procedure for the evaluation of teachers of the charter school must provide the same level of protection and otherwise comply with the standards for evaluation set forth in NRS 391.3125.

(n) The time by which certain academic or educational results will be achieved.

(o) The kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020, for which the charter school intends to operate.

3. The Department shall review an application to form a charter school to determine whether it is complete. If an application proposes to convert an existing public school, homeschool or other program of home study into a charter school, the Department shall deny the application. The Department shall provide written notice to the applicant of its approval or denial of the application. If the Department denies an application, the Department shall include in the written notice the reason for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

4. As used in subsection 1, "teacher" means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and

(b) Has at least 2 years of experience as an employed teacher.

➥ The term does not include a person who is employed as a substitute teacher.

Sec. 32. NRS 386.525 is hereby amended to read as follows:

386.525 1. Upon approval of an application by the Department, a committee to form a charter school may submit the application to the board of trustees of the school district in which the proposed charter school will be located, a college or university within the Nevada System of Higher Education or ~~[directly to the Subcommittee on Charter Schools.]~~ ***the Charter School Institute.*** If the board of trustees of a school district, a college or a university, as applicable, receives an application to form a charter school, the board of trustees or the institution, as applicable, shall consider the application at a meeting that must be held not later than 45 days after the receipt of the application, or a period mutually agreed upon by the committee to form the charter school and the board of trustees of the school district or the institution, as applicable, and ensure that notice of the meeting has been provided pursuant to chapter 241 of NRS. The board of trustees, the college, the university or the ~~[Subcommittee on Charter Schools,]~~ ***Charter School Institute,*** as applicable, shall review an application to determine whether the application:

(a) Complies with NRS 386.500 to 386.610, inclusive, ***and sections 18 to 27, inclusive, of this act*** and the regulations applicable to charter schools; and

(b) Is complete in accordance with the regulations of the ~~[Department.]~~ ***Charter School Institute.***

2. The Department shall assist the board of trustees of a school district, ***the Charter School Institute,*** the college or the university, as applicable, in the review of an application. The board of trustees, the college or the university, as applicable, may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1. The board of trustees, the college or the university, as applicable, shall provide written notice to the applicant of its approval or denial of the application.

3. If the board of trustees, the college or the university, as applicable, denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

4. If the board of trustees, the college or the university, as applicable, denies an application after it has been resubmitted pursuant to subsection 3, the applicant may submit a written request for sponsorship by the ~~[State Board to the Subcommittee on Charter Schools created pursuant to NRS 386.507]~~ ***Charter School Institute*** not more than 30 days after receipt of the written notice of denial. Any request that is submitted pursuant to this subsection must be accompanied by the application to form the charter school.

5. If the ~~[Subcommittee on Charter Schools]~~ ***Charter School Institute*** receives an application pursuant to subsection 1 or 4, it shall hold a meeting to consider the application. The meeting must be held not later than 45 days after receipt of the application. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The ~~[Subcommittee]~~ ***Charter School Institute*** shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The ~~[Subcommittee may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1.~~

~~6. The Subcommittee on Charter Schools shall transmit the application and the recommendation of the Subcommittee for approval or denial of the application to the State Board. Not more than 14 days after the date of the meeting of the Subcommittee pursuant to subsection 5, the State Board shall hold a meeting to consider the recommendation of the Subcommittee. Notice of the meeting must be posted in accordance with chapter 241 of NRS. The State Board shall review the application in accordance with the factors set forth in paragraphs (a) and (b) of subsection 1. The State Board]~~ ***Charter School Institute*** may approve an application if it satisfies the requirements of paragraphs (a) and (b) of subsection 1. Not more than 30 days after the meeting, the ~~[State Board]~~ ***Charter School Institute*** shall provide written notice of its determination to the applicant.

~~[7.]~~ ***6.*** If the ~~[State Board]~~ ***Charter School Institute*** denies an application, it shall include in the written notice the reasons for the denial and the deficiencies in the application. The applicant must be granted 30 days after receipt of the written notice to correct any deficiencies identified in the written notice and resubmit the application.

~~[8.]~~ ***7.*** If the ~~[State Board]~~ ***Charter School Institute*** denies an application after it has been resubmitted pursuant to subsection ~~[7,]~~ ***6,*** the applicant may, not more than 30 days after the receipt of the written notice from the ~~[State Board,]~~ ***Charter School Institute,*** appeal the final determination to the district court of the county in which the proposed charter school will be located.

~~[9.]~~ ***8.*** On or before January 1 of each odd-numbered year, the Superintendent of Public Instruction shall submit a written report to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature. The report must include:

(a) A list of each application to form a charter school that was submitted to the board of trustees of a school district, the ~~[State Board,]~~ ***Charter School Institute,*** a college or a university during the immediately preceding biennium;

(b) The educational focus of each charter school for which an application was submitted;

(c) The current status of the application; and

(d) If the application was denied, the reasons for the denial.

Sec. 33. NRS 386.527 is hereby amended to read as follows:

386.527 1. If the ~~[State Board,]~~ ***Charter School Institute,*** the board of trustees of a school district or a college or university within the Nevada System of Higher Education approves an application to form a charter school, it shall grant a written charter to the applicant. The ~~[State Board,]~~ ***Charter School Institute,*** the board of trustees, the college or the university, as applicable, shall, not later than 10 days after the approval of the application, provide written notice to the Department of the approval and the date of the approval. If the board of trustees approves the application, the board of trustees shall be deemed the sponsor of the charter school.

2. If the ~~[State Board]~~ ***Charter School Institute*** approves the application:

(a) The ~~[State Board]~~ ***Charter School Institute*** shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board ***, the Charter School Institute*** nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

3. If a college or university within the Nevada System of Higher Education approves the application:

(a) That institution shall be deemed the sponsor of the charter school.

(b) Neither the State of Nevada, the State Board ***, the Charter School Institute*** nor the Department is an employer of the members of the governing body of the charter school or any of the employees of the charter school.

4. The governing body of a charter school may request, at any time, a ~~[change]~~ ***transfer*** in the sponsorship of the charter school to an entity that is authorized to sponsor charter schools pursuant to NRS 386.515. The ~~[State Board]~~ ***Charter School Institute*** shall adopt:

(a) An application ~~[process for]~~ ***to request a transfer of the sponsorship of*** a charter school ***,*** ~~[that requests a change in the sponsorship of the charter school,]~~ which must not require the applicant to undergo the requirements of an initial application to form a charter school; and

(b) Objective criteria for the conditions under which such a request may be granted.

5. Except as otherwise provided in subsection 7, a written charter must be for a term of 6 years unless the governing body of a charter school renews its initial charter after 3 years of operation pursuant to subsection 2 of NRS 386.530. A written charter must include all conditions of operation set forth in paragraphs (a) to (o), inclusive, of subsection 2 of NRS 386.520 and include the kind of school, as defined in subsections 1 to 4, inclusive, of NRS 388.020 for which the charter school is authorized to operate. If the ~~[State Board]~~ ***Charter School Institute*** or a college or university within the Nevada System of Higher Education is the sponsor of the charter school, the written charter must set forth the responsibilities of the sponsor and the charter school with regard to the provision of services and programs to pupils with disabilities who are enrolled in the charter school in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and NRS 388.440 to 388.520, inclusive. As a condition of the issuance of a written charter pursuant to this subsection, the charter school must agree to comply with all conditions of operation set forth in NRS 386.550.

6. The governing body of a charter school may submit to the sponsor of the charter school a written request for an amendment of the written charter of the charter school. Such an amendment may include, without limitation, the expansion of instruction and other educational services to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school if the expansion of grade levels does not change the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate. If the proposed amendment complies with the provisions of ~~[this section,]~~ NRS 386.500 to 386.610, inclusive, ***and sections 18 to 27, inclusive, of this act,*** and any other statute or regulation applicable to charter schools, the sponsor may amend the written charter in accordance with the proposed amendment. If a charter school wishes to expand the instruction and other educational services offered by the charter school to pupils who are enrolled in grade levels other than the grade levels of pupils currently approved for enrollment in the charter school and the expansion of grade levels changes the kind of school, as defined in NRS 388.020, for which the charter school is authorized to operate, the governing body of the charter school must submit a new application to form a charter school. If such an application is approved, the charter school may continue to operate under the same governing body and an additional governing body does not need to be selected to operate the charter school with the expanded grade levels.

7. The ~~[State Board]~~ ***Charter School Institute*** shall adopt objective criteria for the issuance of a written charter to an applicant who is not prepared to commence operation on the date of issuance of the written charter. The criteria must include, without limitation, the:

(a) Period for which such a written charter is valid; and

(b) Timelines by which the applicant must satisfy certain requirements demonstrating its progress in preparing to commence operation.

➥ A holder of such a written charter may apply for grants of money to prepare the charter school for operation. A written charter issued pursuant to this subsection must not be designated as a conditional charter or a provisional charter or otherwise contain any other designation that would indicate the charter is issued for a temporary period.

8. The holder of a written charter that is issued pursuant to subsection 7 shall not commence operation of the charter school and is not eligible to receive apportionments pursuant to NRS 387.124 until the sponsor has determined that the requirements adopted by the ~~[State Board]~~ ***Charter School Institute*** pursuant to subsection 7 have been satisfied and that the facility the charter school will occupy has been inspected and meets the requirements of any applicable building codes, codes for the prevention of fire, and codes pertaining to safety, health and sanitation. Except as otherwise provided in this subsection, the sponsor shall make such a determination 30 days before the first day of school for the:

(a) Schools of the school district in which the charter school is located that operate on a traditional school schedule and not a year-round school schedule; or

(b) Charter school,

➥ whichever date the sponsor selects. The sponsor shall not require a charter school to demonstrate compliance with the requirements of this subsection more than 30 days before the date selected. However, it may authorize a charter school to demonstrate compliance less than 30 days before the date selected.

Sec. 34. NRS 386.530 is hereby amended to read as follows:

386.530 1. Except as otherwise provided in subsection 2, an application for renewal of a written charter may be submitted to the sponsor of the charter school not less than 90 days before the expiration of the charter. The application must include the information prescribed by the regulations of the ~~[Department.]~~ ***Charter School Institute.*** The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the ~~[Department.]~~ ***Charter School Institute.*** The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination not fewer than 30 days before the expiration of the charter. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➥ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

2. A charter school may submit an application for renewal of its initial charter after 3 years of operation of the charter school. The application must include the information prescribed by the regulations of the ~~[Department.]~~ ***Charter School Institute.*** The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the ~~[Department.]~~ ***Charter School Institute.*** The sponsor shall renew the charter unless it finds the existence of any ground for revocation set forth in NRS 386.535. The sponsor shall provide written notice of its determination. If the sponsor intends not to renew the charter, the written notice must:

(a) Include a statement of the deficiencies or reasons upon which the action of the sponsor is based; and

(b) Prescribe a period of not less than 30 days during which the charter school may correct any such deficiencies.

➥ If the charter school corrects the deficiencies to the satisfaction of the sponsor within the time prescribed in paragraph (b), the sponsor shall renew the charter of the charter school.

Sec. 35. NRS 386.540 is hereby amended to read as follows:

386.540 1. ~~[The Department]~~ ***Subject to the provisions of subsections 3 and 4, the Charter School Institute*** shall adopt regulations that prescribe:

(a) The process for submission of an application by the board of trustees of a school district to the Department for authorization to sponsor charter schools and the contents of the application;

(b) The process for submission of an application to form a charter school to the Department, the board of trustees of a school district, the ~~[Subcommittee on Charter Schools]~~ ***Charter School Institute*** and a college or university within the Nevada System of Higher Education, and the contents of the application;

(c) The process for submission of an application to renew a written charter; and

(d) The criteria and type of investigation that must be applied by the board of trustees, the ~~[Subcommittee on Charter Schools, the State Board]~~ ***Charter School Institute*** and a college or university within the Nevada System of Higher Education in determining whether to approve an application to form a charter school or an application to renew a written charter.

2. ***Subject to the provisions of subsections 3 and 4, the Charter School Institute may adopt regulations as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, and sections 18 to 27, inclusive, of this act, including, without limitation, regulations that prescribe the:***

(a) Requirements for performance audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and

(b) Requirements for performance audits every 3 years for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.

3. The Department may adopt regulations ***relating to the finances and budgets of charter schools*** as it determines are necessary to carry out the provisions of NRS 386.500 to 386.610, inclusive, ***and sections 18 to 27, inclusive, of this act,*** including, without limitation, regulations that prescribe the:

(a) Procedures for accounting and budgeting;

(b) Requirements for ~~[performance audits and]~~ financial audits of charter schools on an annual basis for charter schools that do not satisfy the requirements of subsection 1 of NRS 386.5515; and

(c) Requirements for ~~[performance audits every 3 years and]~~ financial audits on an annual basis for charter schools that satisfy the requirements of subsection 1 of NRS 386.5515.

4. The State Board may disapprove any regulation adopted by the Charter School Institute if the regulation:

(a) Threatens the efficient operation of the public schools in this State; or

(b) Creates an undue financial hardship for any charter school in this State.

➥ A regulation shall be deemed approved if the State Board does not disapprove the regulation within 45 days after it is adopted by the Charter School Institute.

Sec. 36. NRS 386.547 is hereby amended to read as follows:

386.547 The ~~[State Board]~~ ***Charter School Institute*** shall:

1. Review all statutes and regulations from which charter schools are exempt and determine whether such exemption assisted or impeded the charter schools in achieving their educational goals and objectives.

2. Make available information concerning the formation and operation of charter schools in this State to pupils, parents and legal guardians of pupils, teachers and other educational personnel and members of the general public.

Sec. 37. NRS 386.5515 is hereby amended to read as follows:

386.5515 1. To the extent money is available from legislative appropriation or otherwise, a charter school may apply to the Department for money for facilities if:

(a) The charter school has been operating in this State for at least 5 consecutive years and is in good financial standing;

(b) Each financial audit and each performance audit of the charter school required ~~[by the Department]~~ ***pursuant to NRS 386.540*** contains no major notations, corrections or errors concerning the charter school for at least 5 consecutive years;

(c) The charter school has met or exceeded adequate yearly progress as determined pursuant to NRS 385.3613 or has demonstrated improvement in the achievement of pupils enrolled in the charter school, as indicated by annual measurable objectives determined by the ~~[State Board,]~~ ***Charter School Institute,*** for the majority of the years of its operation;

(d) The charter school offers instruction on a daily basis during the school week of the charter school on the campus of the charter school; and

(e) At least 75 percent of the pupils enrolled in the charter school who are required to take the high school proficiency examination have passed that examination, if the charter school enrolls pupils at a high school grade level.

2. A charter school that satisfies the requirements of subsection 1 shall submit to a performance audit as required by the ~~[Department]~~ ***Charter School Institute*** one time every 3 years. The sponsor of the charter school and the ~~[Department]~~ ***Charter School Institute*** shall not request a performance audit of the charter school more frequently than every 3 years without showing good cause for such a request.

3. A charter school that does not satisfy the requirements of subsection 1 shall submit a quarterly report of the financial status of the charter school if requested by the sponsor of the charter school.

Sec. 38. NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of a school year, the sponsor of a charter school may request reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship for that school year if the sponsor provided administrative services during that school year. The request must include an itemized list of those costs. Upon receipt of such a request, the governing body shall pay the reimbursement to the ~~[board of trustees of the school district if the board of trustees sponsors the charter school, to the Department if the State Board sponsors the charter school or to the college or university within the Nevada System of Higher Education if that institution sponsors]~~ ***sponsor of*** the charter school. If a governing body fails to pay the reimbursement, the charter school shall be deemed to have violated its

written charter and the sponsor may take such action to revoke the written charter pursuant to NRS 386.535 as it deems necessary. ~~[If the board of trustees of a school district is the sponsor of a charter school, the]~~ ***The*** amount of money that may be paid to the sponsor pursuant to this subsection for administrative expenses in 1 school year must not exceed ~~[:~~

~~(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~(b) For any year after the first year of operation of the charter school, 1 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~4. If the Charter School Institute is the sponsor of a charter school, the amount of money that may be paid to the Institute pursuant to subsection 3 for administrative expenses in 1 school year must not exceed]~~ ***2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.***

~~[5. If] [the State Board or] [a college or university within the Nevada System of Higher Education is the sponsor of a charter school, the amount of money that may be paid to the] [Department or to the] [institution] [, as applicable,] [pursuant to subsection 3 for administrative expenses in 1 school year must not exceed:~~

~~(a) For the first year of operation of the charter school, 2 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.~~

~~(b) For any year after the first year of operation of the charter school, 1.5 percent of the total amount of money apportioned to the charter school during the year pursuant to NRS 387.124.]~~

~~[5.]~~ ~~*[6.]*~~ ***4.*** To determine the amount of money for distribution to a charter school in its first year of operation, the count of pupils who are enrolled in the charter school must initially be determined 30 days before the beginning of the school year of the school district, based on the number of pupils whose applications for enrollment have been approved by the charter school. The count of pupils who are enrolled in the charter school must be revised on the last day of the first school month of the school district in which the charter school is located for the school year, based on the actual number of pupils who are enrolled in the charter school. Pursuant to subsection 5 of NRS 387.124, the governing body of a charter school may request that the apportionments made to the charter school in its first year of operation be paid to the charter school 30 days before the apportionments are otherwise required to be made.

~~[6.]~~ ~~*[7.]*~~ ***5.*** If a charter school ceases to operate as a charter school during a school year, the remaining apportionments that would have been made to the charter school pursuant to NRS 387.124 for that year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the charter school reside.

~~[7.]~~ ~~*[8.]*~~ ***6.*** The governing body of a charter school may solicit and accept donations, money, grants, property, loans, personal services or other assistance for purposes relating to education from members of the general public, corporations or agencies. The governing body may comply with applicable federal laws and regulations governing the provision of federal grants for charter schools. The ~~[State Board]~~ ***Charter School Institute*** may assist a charter school that operates exclusively for the enrollment of pupils who receive special education in identifying sources of money that may be available from the Federal Government or this State for the provision of educational programs and services to such pupils.

~~[8.]~~ ~~*[9.]*~~ ***7.*** If a charter school uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the charter school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

Sec. 39. NRS 386.576 is hereby amended to read as follows:

386.576 1. The Fund for Charter Schools is hereby created in the State Treasury as a revolving loan fund, to be administered by the ~~[Department.]~~ ***Charter School Institute.***

2. The money in the revolving fund must be invested as other state funds are invested. All interest and income earned on the money in the revolving fund must be credited to the revolving fund. Any money remaining in the revolving fund at the end of a fiscal year does not revert to the State General Fund, and the balance in the Fund must be carried forward.

3. All payments of principal and interest on all the loans made to a charter school from the revolving fund must be deposited in the State Treasury for credit to the revolving fund.

4. Claims against the revolving fund must be paid as other claims against the State are paid.

5. The ~~[Department]~~ ***Charter School Institute*** may accept gifts, grants, bequests and donations from any source for deposit in the revolving fund.

Sec. 40. NRS 386.577 is hereby amended to read as follows:

386.577 1. After deducting the costs directly related to administering the Fund for Charter Schools, the ~~[Department]~~ ***Charter School Institute*** may use the money in the Fund for Charter Schools, including repayments of principal and interest on loans made from the Fund, and interest and income earned on money in the Fund, only to make loans at or below market rate to charter schools for the costs incurred:

(a) In preparing a charter school to commence its first year of operation; and

(b) To improve a charter school that has been in operation.

2. The total amount of a loan that may be made to a charter school in 1 year must not exceed $25,000.

Sec. 41. NRS 386.578 is hereby amended to read as follows:

386.578 1. If the governing body of a charter school has a written charter issued pursuant to NRS 386.527, the governing body may submit an

application to the ~~[Department]~~ ***Charter School Institute*** for a loan from the Fund for Charter Schools. An application must include a written description of the manner in which the loan will be used to prepare the charter school for its first year of operation or to improve a charter school that has been in operation.

2. The ~~[Department]~~ ***Charter School Institute*** shall, within the limits of money available for use in the Fund, make loans to charter schools whose applications have been approved. If the ~~[Department]~~ ***Charter School Institute*** makes a loan from the Fund, the ~~[Department]~~ ***Charter School Institute*** shall ensure that the contract for the loan includes all terms and conditions for repayment of the loan.

3. ~~[The State Board:]~~ ***Subject to the provisions of subsection 3 of NRS 386.540, the Charter School Institute:***

(a) Shall adopt regulations that prescribe the:

(1) Annual deadline for submission of an application to the ~~[Department]~~ ***Charter School Institute*** by a charter school that desires to receive a loan from the Fund; and

(2) Period for repayment and the rate of interest for loans made from the Fund.

(b) May adopt such other regulations as it deems necessary to carry out the provisions of this section and NRS 386.576 and 386.577.

Sec. 41.5. **NRS 386.605 is hereby amended to read as follows:**

386.605 1. On or before July 15 of each year, the governing body of a charter school shall submit the information concerning the charter school that is required pursuant to subsection ~~[2]~~ ***3*** of NRS 385.347 to the ~~[board of trustees of the school district in which the charter school is located]~~ ***Nevada Charter School Institute*** for inclusion in the report of the ~~[school district]~~ ***Institute*** pursuant to that section. The information must be submitted by the charter school in a format prescribed by the ~~[board of trustees.]~~ ***Nevada Charter School Institute.***

2. The Legislative Bureau of Educational Accountability and Program Evaluation created pursuant to NRS 218.5356 may authorize a person or entity with whom it contracts pursuant to NRS 385.359 to review and analyze information submitted by charter schools pursuant to this section and NRS 385.357, consult with the ***Nevada Charter School Institute and the*** governing bodies of charter schools and submit written reports concerning charter schools pursuant to NRS 385.359.

Sec. 42. NRS 386.610 is hereby amended to read as follows:

386.610 1. On or before August 15 of each year, if the board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school, the board of trustees or the institution, as applicable, shall submit a written report to the ~~[State Board.]~~ ***Charter School Institute.*** The written report must include:

(a) An evaluation of the progress of each charter school sponsored by the board of trustees or institution, as applicable, in achieving its educational goals and objectives.

(b) A description of all administrative support and services provided by the school district or institution, as applicable, to the charter school.

2. The governing body of a charter school shall, after 3 years of operation under its initial charter, submit a written report to the sponsor of the charter school. The written report must include a description of the progress of the charter school in achieving its educational goals and objectives. If the charter school submits an application for renewal in accordance with the regulations of the ~~[Department,]~~ ***Charter School Institute,*** the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

Sec. 42.5. **NRS 386.650 is hereby amended to read as follows:**

386.650 1. The Department shall establish and maintain an automated system of accountability information for Nevada. The system must:

(a) Have the capacity to provide and report information, including, without limitation, the results of the achievement of pupils:

(1) In the manner required by 20 U.S.C. §§ 6301 et seq., and the regulations adopted pursuant thereto, and NRS 385.3469 and 385.347; and

(2) In a separate reporting for each group of pupils identified in paragraph (b) of subsection 1 of NRS 385.361;

(b) Include a system of unique identification for each pupil:

(1) To ensure that individual pupils may be tracked over time throughout this State; and

(2) That, to the extent practicable, may be used for purposes of identifying a pupil for both the public schools and the Nevada System of Higher Education, if that pupil enrolls in the System after graduation from high school;

(c) Have the capacity to provide longitudinal comparisons of the academic achievement, rate of attendance and rate of graduation of pupils over time throughout this State;

(d) Have the capacity to perform a variety of longitudinal analyses of the results of individual pupils on assessments, including, without limitation, the results of pupils by classroom and by school;

(e) Have the capacity to identify which teachers are assigned to individual pupils and which paraprofessionals, if any, are assigned to provide services to individual pupils;

(f) Have the capacity to provide other information concerning schools and school districts that is not linked to individual pupils, including, without limitation, the designation of schools and school districts pursuant to NRS 385.3623 and 385.377, respectively, and an identification of which schools, if any, are persistently dangerous;

(g) Have the capacity to access financial accountability information for each public school, including, without limitation, each charter school, for each school district and for this State as a whole; and

(h) Be designed to improve the ability of the Department, ***the Nevada Charter School Institute, the*** school districts and the public schools in this State, including, without limitation, charter schools, to account for the pupils who are enrolled in the public schools, including, without limitation, charter schools.

➥ The information maintained pursuant to paragraphs (c), (d) and (e) must be used for the purpose of improving the achievement of pupils and improving classroom instruction but must not be used for the purpose of evaluating an individual teacher or paraprofessional.

2. The board of trustees of each school district shall:

(a) Adopt and maintain the program prescribed by the Superintendent of Public Instruction pursuant to subsection 3 for the collection, maintenance and transfer of data from the records of individual pupils to the automated system of information, including, without limitation, the development of plans for the educational technology which is necessary to adopt and maintain the program;

(b) Provide to the Department electronic data concerning pupils as required by the Superintendent of Public Instruction pursuant to subsection 3; and

(c) Ensure that an electronic record is maintained in accordance with subsection 3 of NRS 386.655.

3. The Superintendent of Public Instruction shall:

(a) Prescribe a uniform program throughout this State for the collection, maintenance and transfer of data that each school district must adopt, which must include standardized software;

(b) Prescribe the data to be collected and reported to the Department by each school district and each sponsor of a charter school pursuant to subsection 2 and by each university school for profoundly gifted pupils;

(c) Prescribe the format for the data;

(d) Prescribe the date by which each school district shall report the data to the Department;

(e) Prescribe the date by which each charter school shall report the data to the sponsor of the charter school;

(f) Prescribe the date by which each university school for profoundly gifted pupils shall report the data to the Department;

(g) Prescribe standardized codes for all data elements used within the automated system and all exchanges of data within the automated system, including, without limitation, data concerning:

(1) Individual pupils;

(2) Individual teachers and paraprofessionals;

(3) Individual schools and school districts; and

(4) Programs and financial information;

(h) Provide technical assistance to each school district to ensure that the data from each public school in the school district, including, without limitation, each ~~[charter school and]~~ university school for profoundly gifted pupils located within the school district, is compatible with the automated system of information and comparable to the data reported by other school districts; and

(i) Provide for the analysis and reporting of the data in the automated system of information.

4. The Department shall establish, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, a mechanism by which persons or entities, including, without limitation, state officers who are members of the Executive or Legislative Branch, administrators of public schools and school districts, teachers and other educational personnel, and parents and guardians, will have different types of access to the accountability information contained within the automated system to the extent that such information is necessary for the performance of a duty or to the extent that such information may be made available to the general public without posing a threat to the confidentiality of an individual pupil.

5. The Department may, to the extent authorized by the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, and any regulations adopted pursuant thereto, enter into an agreement with the Nevada System of Higher Education to provide access to data contained within the automated system for research purposes.

Sec. 43. NRS 386.745 is hereby amended to read as follows:

386.745 1. Except as otherwise provided in subsection 10, the empowerment team of a public school, other than a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education, that develops an empowerment plan pursuant to NRS 386.740 shall submit the proposed empowerment plan to the designee of the board of trustees appointed pursuant to this subsection for review and approval pursuant to this section. The board of trustees shall designate a person to review each proposed empowerment plan and recommend the approval or denial of the plan to the board of trustees.

2. The board of trustees shall approve or deny the empowerment plan. The approval or denial of an empowerment plan must be based solely upon the contents of the plan and may not consider the amount of money required to carry out the empowerment plan if the plan is within the limits of the total apportionment to the school pursuant to subsection 4 of NRS 386.740.

3. Except as otherwise provided in subsection 10, if the board of trustees approves an empowerment plan, the president of the board of trustees, the principal of the public school and the chairman of the empowerment team, if the principal is not the chairman, shall each sign the plan. The empowerment plan is effective for 3 years unless the empowerment team determines that

the school will no longer operate under the plan or the board of trustees of the school district revokes the plan.

4. Except as otherwise provided in subsection 10, if the board of trustees denies an empowerment plan, the board of trustees shall:

(a) Return the plan to the empowerment team with a written statement indicating the reason for the denial; and

(b) Provide the empowerment team with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. An empowerment plan may be resubmitted not more than once in a school year.

5. Except as otherwise provided in subsection 10, an empowerment plan for a public school is not effective and a public school shall not operate as an empowerment school unless the plan is signed by the president of the board of trustees of the school district, the principal of the public school and the chairman of the empowerment team, if the principal is not the chairman. If an empowerment plan includes a request for a waiver from a statute contained in this title or a regulation of the State Board ***, the Nevada Charter School Institute*** or the Department, a public school may operate under the approved plan but the requested waivers from state law are not effective unless approved by the State Board pursuant to subsection 7.

6. Except as otherwise provided in subsection 10, the empowerment team may submit a written request to the board of trustees for an amendment to the empowerment plan approved pursuant to this section, including an explanation of the reason for the amendment. An amendment must be approved in the same manner as the empowerment plan was approved.

7. If the empowerment plan includes a request for a waiver from a statute or regulation, the board of trustees shall forward the approved empowerment plan to the State Board for review of the request for a waiver. The State Board shall review the empowerment plan and may approve or deny the request for a waiver from a statute or regulation unless the statute or regulation is required by federal law or is required to carry out federal law. ***If the statute or regulation for which the request is submitted is within the jurisdiction of the Nevada Charter School Institute, the State Board shall work in consultation with the Institute in reviewing the request and in making a determination on the request.***

8. If the State Board approves the request for a waiver for a school, the Department shall provide written notice of the approval to the board of trustees of the school district that submitted the empowerment plan on behalf of the school.

9. If the State Board denies a request for a waiver, the State Board shall:

(a) Return the request to the school district with a written statement indicating the reason for the denial; and

(b) Except as otherwise provided in subsection 10, provide the empowerment team with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. A request for

a waiver may be resubmitted by the school district, after the empowerment team corrects any deficiencies, not more than once in a school year.

10. If an empowerment team has not been established pursuant to the exception provided in subsection 2 of NRS 386.730, the principal of the school shall carry out the responsibilities and duties assigned to the empowerment team pursuant to this section.

Sec. 44. NRS 386.750 is hereby amended to read as follows:

386.750 1. Except as otherwise provided in subsection 7, the empowerment team of a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education which develops an empowerment plan pursuant to NRS 386.740 shall submit the proposed plan to the Department for transmission to the State Board for review and approval pursuant to this section.

2. The State Board shall review each proposed empowerment plan and approve or deny the plan, including a request for a waiver from a statute contained in this title or a regulation of the State Board ***, the Nevada Charter School Institute*** or the Department, if applicable. The approval or denial of an empowerment plan must be based solely upon the contents of the plan and may not consider the amount of money required to carry out the empowerment plan if the plan is within the limits of the total apportionment to the charter school pursuant to subsection 4 of NRS 386.740. ***If the charter school is sponsored by the Nevada Charter School Institute, the State Board shall work in consultation with the Institute in reviewing the plan and making a determination on the plan.***

3. Except as otherwise provided in subsection 7, if the State Board approves an empowerment plan, the President of the State Board, the principal of the charter school and the chairman of the empowerment team, if the principal is not the chairman, shall each sign the plan. The empowerment plan is effective for 3 years unless the empowerment team determines that the school will no longer operate under the plan or the State Board revokes the plan.

4. Except as otherwise provided in subsection 7, if the State Board denies an empowerment plan, the State Board shall:

(a) Return the plan to the empowerment team with a written statement indicating the reason for the denial; and

(b) Provide the empowerment team with a reasonable opportunity to correct any deficiencies identified in the written statement and resubmit it for approval. An empowerment plan may be resubmitted not more than once in a school year.

5. Except as otherwise provided in subsection 7, an empowerment plan for a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education is not effective and a charter school shall not operate as an empowerment school unless the plan is signed by the President of the State

Board, the principal of the charter school and the chairman of the empowerment team, if the principal is not the chairman.

6. Except as otherwise provided in subsection 7, the empowerment team may submit a written request to the Department for an amendment to the empowerment plan approved pursuant to this section, including an explanation of the reason for the amendment. An amendment must be approved in the same manner as the empowerment plan was approved.

7. If an empowerment team has not been established pursuant to the exception provided in subsection 2 of NRS 386.730, the principal of the school shall carry out the responsibilities and duties assigned to the empowerment team pursuant to this section.

Sec. 45. NRS 386.760 is hereby amended to read as follows:

386.760 1. Each empowerment school, other than a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education, shall, on a quarterly basis, submit to the board of trustees of the school district in which the school is located a report that includes:

(a) The financial status of the school; and

(b) A description of the school's compliance with each component of the empowerment plan for the school.

2. Each charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education which is approved to operate as an empowerment school shall, on a quarterly basis, submit to the Department a report that includes:

(a) The financial status of the school; and

(b) A description of the school's compliance with each component of the empowerment plan for the school.

3. The board of trustees of a school district shall conduct a financial audit of each empowerment school within the school district, other than a charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education. Each financial audit must be conducted on an annual basis and more frequently if determined necessary by the board of trustees.

4. The Department shall conduct a financial audit of each charter school that is sponsored by the ~~[State Board]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education which operates as an empowerment school on an annual basis and more frequently if determined necessary by the Department.

5. On or before July 1 of each year, the board of trustees of each school district shall compile the reports and audits required pursuant to subsections 1 and 3, if any, and forward the compilation to the:

(a) Governor;

(b) Department; and

(c) Legislative Committee on Education.

6. On or before July 1 of each year, the Department shall compile the reports and audits required pursuant to subsections 2 and 4, if any, and forward the compilation to the:

(a) Governor; and

(b) Legislative Committee on Education.

Sec. 46. 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, charter schools and university schools for profoundly gifted pupils 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, 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 and all the funds attributable to pupils who are enrolled in a university school for profoundly gifted pupils located in the county. No apportionment may be made to a school district if the amount of the local funds exceeds the amount of basic support.

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]~~ ***Nevada Charter School Institute*** or by a college or university within the Nevada System of Higher Education, 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. 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 apportionment to a university school for profoundly gifted pupils, computed on a yearly basis, is equal to the sum of the basic support per pupil in the county in which the university school is located 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 university school is located. If the apportionment per pupil to a university school for profoundly gifted pupils is more than the amount to be apportioned to the school district in which the university school is located, the school district shall pay the difference directly to the university school. The governing body of a university school for profoundly gifted pupils may submit a written request to the Superintendent of Public Instruction to receive, in the first year of operation of the university 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 university school for profoundly gifted pupils may receive all four apportionments in advance in its first year of operation.

7. 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.

8. 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. 46.3. **NRS 388.795 is hereby amended to read as follows:**

388.795 1. The Commission shall establish a plan for the use of educational technology in the public schools of this State. In preparing the plan, the Commission shall consider:

(a) Plans that have been adopted by the Department and the school districts in this State;

(b) Plans that have been adopted in other states;

(c) The information reported pursuant to paragraph (t) of subsection 2 of NRS 385.347 ~~[,]~~ ***and similar information included in the annual report of accountability prepared by the Nevada Charter School Institute pursuant to subsection 3 of NRS 385.347.***

(d) The results of the assessment of needs conducted pursuant to subsection 6; and

(e) Any other information that the Commission or the Committee deems relevant to the preparation of the plan.

2. The plan established by the Commission must include recommendations for methods to:

(a) Incorporate educational technology into the public schools of this State;

(b) Increase the number of pupils in the public schools of this State who have access to educational technology;

(c) Increase the availability of educational technology to assist licensed teachers and other educational personnel in complying with the requirements of continuing education, including, without limitation, the receipt of credit for college courses completed through the use of educational technology;

(d) Facilitate the exchange of ideas to improve the achievement of pupils who are enrolled in the public schools of this State; and

(e) Address the needs of teachers in incorporating the use of educational technology in the classroom, including, without limitation, the completion of training that is sufficient to enable the teachers to instruct pupils in the use of educational technology.

3. The Department shall provide:

(a) Administrative support;

(b) Equipment; and

(c) Office space,

➥ as is necessary for the Commission to carry out the provisions of this section.

4. The following entities shall cooperate with the Commission in carrying out the provisions of this section:

(a) The State Board.

(b) The board of trustees of each school district.

(c) The superintendent of schools of each school district.

(d) The Department.

5. The Commission shall:

(a) Develop technical standards for educational technology and any electrical or structural appurtenances necessary thereto, including, without limitation, uniform specifications for computer hardware and wiring, to ensure that such technology is compatible, uniform and can be interconnected throughout the public schools of this State.

(b) Allocate money to the school districts from the Trust Fund for Educational Technology created pursuant to NRS 388.800 and any money appropriated by the Legislature for educational technology, subject to any priorities for such allocation established by the Legislature.

(c) Establish criteria for the board of trustees of a school district that receives an allocation of money from the Commission to:

(1) Repair, replace and maintain computer systems.

(2) Upgrade and improve computer hardware and software and other educational technology.

(3) Provide training, installation and technical support related to the use of educational technology within the district.

(d) Submit to the Governor, the Committee and the Department its plan for the use of educational technology in the public schools of this State and any recommendations for legislation.

(e) Review the plan annually and make revisions as it deems necessary or as directed by the Committee or the Department.

(f) In addition to the recommendations set forth in the plan pursuant to subsection 2, make further recommendations to the Committee and the Department as the Commission deems necessary.

6. During the spring semester of each even-numbered school year, the Commission shall conduct an assessment of the needs of each school district relating to educational technology. In conducting the assessment, the Commission shall consider:

(a) The recommendations set forth in the plan pursuant to subsection 2;

(b) The plan for educational technology of each school district, if applicable;

(c) Evaluations of educational technology conducted for the State or for a school district, if applicable; and

(d) Any other information deemed relevant by the Commission.

➥ The Commission shall submit a final written report of the assessment to the Superintendent of Public Instruction on or before April 1 of each even-numbered year.

7. The Superintendent of Public Instruction shall prepare a written compilation of the results of the assessment conducted by the Commission and transmit the written compilation on or before June 1 of each even-numbered year to the Legislative Committee on Education and to the

Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

8. The Commission may appoint an advisory committee composed of members of the Commission or other qualified persons to provide recommendations to the Commission regarding standards for the establishment, coordination and use of a telecommunications network in the public schools throughout the various school districts in this State. The advisory committee serves at the pleasure of the Commission and without compensation unless an appropriation or other money for that purpose is provided by the Legislature.

9. As used in this section, "public school" includes the Caliente Youth Center, the Nevada Youth Training Center and any other state facility for the detention of children that is operated pursuant to title 5 of NRS.

Sec. 46.7. **NRS 392.128 is hereby amended to read as follows:**

392.128 1. Each advisory board to review school attendance created pursuant to NRS 392.126 shall:

(a) Review the records of the attendance and truancy of pupils submitted to the advisory board to review school attendance by the board of trustees of the school district ***or the Nevada Charter School Institute*** pursuant to subsection ~~[7]~~ ***8*** of NRS 385.347;

(b) Identify factors that contribute to the truancy of pupils in the school district;

(c) Establish programs to reduce the truancy of pupils in the school district, including, without limitation, the coordination of services available in the community to assist with the intervention, diversion and discipline of pupils who are truant;

(d) At least annually, evaluate the effectiveness of those programs;

(e) Establish a procedure for schools and school districts for the reporting of the status of pupils as habitual truants; and

(f) Inform the parents and legal guardians of the pupils who are enrolled in the schools within the district of the policies and procedures adopted pursuant to the provisions of this section.

2. The chairman of an advisory board may divide the advisory board into subcommittees. The advisory board may delegate one or more of the duties of the advisory board to a subcommittee of the advisory board, including, without limitation, holding hearings pursuant to NRS 392.147. If the chairman of an advisory board divides the advisory board into subcommittees, the chairman shall notify the board of trustees of the school district of this action. Upon receipt of such a notice, the board of trustees shall establish rules and procedures for each such subcommittee. A subcommittee shall abide by the applicable rules and procedures when it takes action or makes decisions.

3. An advisory board to review school attendance may work with a family resource center or other provider of community services to provide assistance to pupils who are truant. The advisory board shall identify areas

within the school district in which community services are not available to assist pupils who are truant. As used in this subsection, "family resource center" has the meaning ascribed to it in NRS 430A.040.

4. An advisory board to review school attendance created in a county pursuant to NRS 392.126 may use money appropriated by the Legislature and any other money made available to the advisory board for the use of programs to reduce the truancy of pupils in the school district. The advisory board to review school attendance shall, on a quarterly basis, provide to the board of trustees of the school district an accounting of the money used by the advisory board to review school attendance to reduce the truancy of pupils in the school district.

Sec. 47. NRS 386.507 is hereby repealed.

Sec. 48. 1. There is hereby appropriated from the State General Fund to the Account for the Nevada Charter School Institute created by section 27 of this act the sum of:

For the 2009-2010 Fiscal Year $326,253

For the 2010-2011 Fiscal Year $390,063

2. The sums appropriated by subsection 1 must be used to establish and operate the Nevada Charter School Institute, including appointing and hiring persons pursuant to sections 50 and 51 of this act, obtaining office space and equipment, reimbursing members of the Institute pursuant to section 21 of this act and for other operating expenses as necessary to carry out the duties and responsibilities of the Institute.

3. Notwithstanding the provisions of section 27 of this act to the contrary, any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2011, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 16, 2011, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 16, 2011.

Sec. 49. On or before September 1, 2010, the Department of Education shall transfer to the Account for the Nevada Charter School Institute created by section 27 of this act any unexpended money collected by the Department pursuant to NRS 386.570 during the 2009-2010 school year for reimbursement of the administrative costs associated with sponsorship of charter schools sponsored by the State Board of Education.

Sec. 50. Notwithstanding the provisions of section 23 of this act to the contrary, on July 1, 2009, or immediately thereafter, the Governor shall appoint a Director of the Nevada Charter School Institute created by section 21 of this act to a term of 3 years. Upon the expiration of the term of the Director or if a vacancy occurs before the expiration of the term, the Nevada

Charter School Institute shall appoint the Director in accordance with section 23 of this act.

Sec. 51. 1. To assist the Nevada Charter School Institute created by section 21 of this act in carrying out its duties and responsibilities, the Director of the Nevada Charter School Institute shall:

(a) On October 1, 2009, or immediately thereafter, hire an administrative assistant and an accounting assistant; and

(b) On January 1, 2010, or immediately thereafter, hire an educational consultant.

2. On July 1, 2010, one management analyst position in the Department of Education with job duties and responsibilities that relate to charter schools must be transferred to the Nevada Charter School Institute.

Sec. 52. On or before January 1, 2010, the members of the Nevada Charter School Institute created by section 21 of this act shall be appointed to terms commencing on January 1, 2010, as follows:

1. One member appointed by the Governor to a term that expires on June 30, 2011.

2. One member appointed by the Governor to a term that expires on June 30, 2013.

3. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2011.

4. One member appointed by the Majority Leader of the Senate to a term that expires on June 30, 2013.

5. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2011.

6. One member appointed by the Speaker of the Assembly to a term that expires on June 30, 2013.

7. One member must be appointed by an association of charter schools to a term that expires on June 30, 2013. For the initial selection pursuant to this subsection, the Superintendent of Public Instruction shall designate the association of charter schools that is authorized to appoint a member of the Nevada Charter School Institute.

Sec. 53. The Legislative Counsel shall, in preparing the reprint and supplement to the Nevada Revised Statutes with respect to any section which is not amended by this act or is adopted or amended by another act, appropriately change any reference to an officer or agency whose responsibilities have been transferred pursuant to the provisions of this act to refer to the appropriate officer or agency. If any internal reference is made to a section repealed by this act, the Legislative Counsel shall delete the reference and replace it by reference to the superseding section, if any.

Sec. 54. Any regulations adopted by the Department of Education or the State Board of Education before January 1, 2010, pursuant to NRS 386.500 to 386.610, inclusive, remain in effect and may be enforced by the Nevada Charter School Institute created by section 21 of this act until the Institute adopts regulations to repeal or replace those regulations.

Sec. 55. A charter school that is approved to operate as a State Board of Education-sponsored charter school on or before June 30, 2010, shall be deemed to be sponsored by the Nevada Charter School Institute commencing on July 1, 2010, and the current written charter of the charter school shall remain in effect until the expiration of that charter, unless the written charter is revoked by the Nevada Charter School Institute pursuant to NRS 386.535. Before expiration of the written charter, such a charter school may apply to the Nevada Charter School Institute for renewal of its written charter pursuant to NRS 386.530, as amended by section 34 of this act.

Sec. 56. 1. The Department of Personnel shall, upon the request of an employee of the Department of Education or the State Board of Education whose employment is terminated as a result of this act, place the employee on an appropriate reemployment list maintained by the Department of Personnel and allow a preference for each of those employees on that list. The Department of Personnel shall maintain each such employee on the reemployment list until October 1, 2011, or until the employee is reemployed by the Executive Branch of State Government, whichever occurs earlier.

2. The provisions of this section apply regardless of whether the employee was in the classified, unclassified or nonclassified service of the State of Nevada.

Sec. 57. 1. This section and sections 48, 50 to 53, inclusive, and 56 of this act become effective on July 1, 2009.

2. Sections **2,** 17 to 27, inclusive, 35, 41 and 54 of this act become effective on January 1, 2010, for purposes of adopting regulations and on July 1, 2010, for all other purposes.

3. Sections 1**, 3** to ~~[16,]~~ **16.5,** inclusive, 28, 29, 30 to 34, inclusive, 36 to 40, inclusive, ~~[42]~~ **41.5** to 47, inclusive, 49 and 55 of this act become effective on July 1, 2010.

4. Sections 43, 44 and 45 of this act expire by limitation on June 30, 2011.

TEXT OF REPEALED SECTION

386.507 Subcommittee on Charter Schools: Appointment of members; terms. The Subcommittee on Charter Schools of the State Board is hereby created. The President of the State Board shall appoint three members of the State Board to serve on the Subcommittee. Except as otherwise provided in this section, the members of the Subcommittee serve terms of 2 years. If a member is not reelected to the State Board during his service on the Subcommittee, his term on the Subcommittee expires when his membership on the State Board expires. Members of the Subcommittee may be reappointed.

Assemblyman Denis moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 87.

Bill read second time.

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

Amendment No. 511.

AN ACT relating to state administration; revising the provisions governing the collection of certain debts owed to state agencies; revising certain provisions relating to the applicability of certain statutes of limitation to actions brought by or on behalf of the State; **establishing certain presumptions applicable to certain civil actions against employers who fail to provide mandatory industrial insurance or coverage for occupational disease;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, unless a specific statute provides for the collection of a debt owed to an agency of the Executive Branch of State Government, the collection of the debt is governed by the provisions of chapter 353C of NRS. (NRS 353C.090) Under existing law, an agency may engage in its own collection efforts using the procedures and remedies established by chapter 353C of NRS or the agency may request the State Controller to act as its collection agent for that purpose. (NRS 353C.195) **Section 17** of this bill requires the State Controller to act as the collection agent for all agencies ~~[that]~~ **which** do not have specific statutes concerning their debt collection ~~[.]~~ **or which have not obtained a waiver from the State Controller authorizing the agency to engage in its own collection efforts.** Accordingly, **section 17** also requires all such agencies to assign their debts to the State Controller for collection within 60 days after the debt becomes past due **or such other time agreed upon by the agency and the State Controller,** unless the debtor ~~[requests an administrative hearing to contest]~~ **has administratively contested** the existence or amount of the debt. Finally, **section 17** ~~[requires an agency to pay a fee of $10 to the State Controller for each debt assigned to him for collection.]~~ **authorizes an agency that has specific statutory authority to engage in its own collection efforts to assign a debt to the State Controller for collection or to exercise in its own debt collection efforts the additional rights and remedies conferred on the State Controller to collect debts.** (NRS 353C.195) **Section 11** of this bill increases the amount of reimbursement allowed for the costs and fees actually incurred to collect the debt **to an amount** not to exceed 35 percent of the debt or $50,000, whichever is less. **Sections 10,** ~~[12, 13, 15]~~ **12-16 and 18-20** of this bill make technical changes to substitute the State Controller as the person authorized to undertake the collection of debts owed to an agency using the procedures and remedies provided under existing law. (NRS 353C.130, 353C.140, 353C.150, **353C.160,** 353C.180, **353C.190,** 353C.200, 353C.210, 353C.220)

Sections 2-6 of this bill establish new procedures, rights and remedies in connection with the collection of debts owed to agencies. **Section 2**

authorizes **, with certain exceptions,** an agency to refuse to conduct business with a person who has an unpaid debt to the State and also authorizes the State Controller to refuse to make a payment to such a debtor. ~~[Section 3 requires an agency, before assigning a debt to the State Controller, to send a certified letter to the debtor notifying him that his debt will be turned over to the State Controller for collection unless the debtor pays the debt in full or requests an administrative hearing to contest the existence or amount of the debt.]~~ **Section 4** authorizes the State Controller to appoint a private debt collector or other person as his agent to obtain a summary judgment against a debtor and to record that judgment or to file a certificate of liability with a county recorder. **Section 5** authorizes the State Controller, with the approval of the agency to which the debt is owed, to accept the payment of a portion of a debt as satisfaction of the full amount of the debt if the State Controller believes that doing so is likely to generate more net revenue for the State than continuing his efforts to collect the full amount of the debt. **Section 6** authorizes the State Controller to sell a debt that is no longer collectible in a suit by the Attorney General because of the expiration of the statute of limitations applicable to such a suit.

Section 7 of this bill requires the State Controller to transfer to an agency any money collected by the State Controller on behalf of the agency minus any costs incurred or fees paid by the State Controller to collect ~~[the]~~ **any** debt **that has been assigned to him for collection by the agency** and any interest paid by a debtor under an agreement with the State Controller for the payment of the debt on an installment basis. **Sections 8, 9 and 22 of this bill revise certain rulemaking authority relating to the collection of debts. (NRS 353C.110, 353C.120)**

Existing law includes chapter 11 of NRS which contains most of the statutes that limit the amount of time following the accrual of a cause of action during which a civil action may be filed. These statutes are commonly referred to as statutes of limitation. Existing law also provides that the same statutes of limitation that apply to actions brought by private individuals also apply to actions brought on behalf of the State, other than actions for the recovery of real property. **Section 21** of this bill reverses the provisions governing the statutes of limitation for causes of actions brought in the name of the State or for the benefit of the State to provide that none of the provisions of chapter 11 of NRS concerning statutes of limitation apply to actions brought by or on behalf of the State, other than actions for the recovery of real property. (NRS 11.255)

Under existing law, an employer who fails to maintain mandatory industrial insurance coverage and mandatory coverage for occupational disease for an employee is liable to the Division of Industrial Relations of the Department of Business and Industry for any costs incurred by the Division to compensate the employee if he is injured or contracts an occupational disease that arises out of and in the course of his employment. (NRS 616C.220, 617.401) Sections 21.3 and 21.7 of this bill

create a presumption that in any suit brought against such an employer to recover those costs, the Division's payments were: (1) justified by the circumstances of the claim; (2) reasonable and necessary; and (3) made in accordance with applicable law. Sections 21.3 and 21.7 also authorize the State Controller to bring suit in his own name to collect debts arising under those sections if the Division assigns the debts to him for collection.

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

Section 1. Chapter 353C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. ***1. Except as otherwise provided in this section, an agency may refuse to conduct a transaction with, and the State Controller may refuse to draw his warrant in favor of, a person who owes a debt to an agency until the debt is paid or the debtor enters into an agreement, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.***

2. An agency may not refuse to conduct a transaction with, and the State Controller may not refuse to draw his warrant in favor of, a debtor if:

(a) The refusal violates or is prohibited by a state or federal law or court order;

(b) The refusal violates a term or condition of a grant, contract or other agreement that the agency administers or to which the agency is a party; or

(c) The State Controller determines that the refusal is inequitable.

Sec. 3. ~~***[1. Except as otherwise provided in this section, an agency must, before assigning a debt to the State Controller pursuant to NRS 353C.195, notify the debtor that his debt will be assigned to the State Controller for collection unless the debtor:***~~

~~***(a) Pays the debt in full; or***~~

~~***(b) Requests an administrative hearing, pursuant to this section, to contest the existence or amount of the debt.***~~

~~***2. The notice must be sent by certified mail to the last known address of the debtor and must identify the agency to which the debt is owed, the amount of the debt and the date on which the debt will be turned over to the State Controller for collection.***~~

~~***3. The State Controller may, at the request of an agency, prepare and send to a debtor on behalf of the agency the notice required by this section.***~~

~~***4. A debtor who receives a notice pursuant to this section is entitled to an administrative hearing to contest the existence or amount of the debt. Each agency, or the State Controller on behalf of the agency, may adopt such regulations as are necessary to provide an administrative hearing for the purposes of this subsection.]*** **(Deleted by amendment.)**

Sec. 4. ***1.*** ~~***[If]***~~ ***Notwithstanding any specific statute to the contrary, if an agency has assigned a debt to the State Controller for collection pursuant to NRS 353C.195, the State Controller may:***

(a) Appoint a private debt collector or any other person as his agent to:

(1) File an application for the entry of summary judgment against the debtor pursuant to NRS 353C.150; or

(2) Record a certificate of liability against the debtor in the office of a county recorder pursuant to NRS 353C.180; and

(b) Authorize his agent to incur any reasonable costs, including, without limitation, attorney's fees, that are necessary to carry out his duties pursuant to the appointment.

2. The State Controller must, before he appoints an agent pursuant to this section, determine that making the appointment is likely to generate more net revenue for the State than other methods available to the State Controller to collect the debt.

Sec. 5. ~~*[Unless prohibited by a]*~~ ***Notwithstanding any specific statute*** ~~*[,]*~~ ***to the contrary, the State Controller may enter into an agreement with a debtor to accept the payment of a portion of the debt in full satisfaction of the debt, including any penalty and interest, if:***

1. The State Controller determines that accepting the agreed upon amount is likely to generate more net revenue for the State than continuing efforts to collect the full amount of the debt; and

2. The agency to which the debt is owed approves.

Sec. 6. ***If the period of limitation for the collection of a debt set forth in NRS 353C.140 has expired, the State Controller may, in lieu of requesting the State Board of Examiners to designate the debt as a bad debt pursuant to NRS 353C.220, sell the debt to any person.***

Sec. 7. ***If the State Controller collects any money from a debtor or receives any money from a private debt collector or other person to whom the State Controller has assigned the collection of a debt, the State Controller shall , unless prohibited by federal law, transfer the money to the agency to which the debt is owed minus the amount of:***

1. Any costs incurred or fees paid by the State Controller to collect ~~*[the]*~~ ***any debt*** ~~*[.]*~~ ***assigned to him for collection by the agency.***

2. Any interest on the debt collected by the State Controller under the terms of an agreement with the debtor, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.

Sec. 7.5. **NRS 353C.090 is hereby amended to read as follows:**

353C.090 The provisions of this chapter apply to an agency only to the extent that no other specific statute exists which provides for the collection of debts due the agency ~~[. To]~~ ***or, if such a specific statute exists, the agency has assigned a debt to the State Controller pursuant to NRS 353C.195. Except in the case of such an assignment, to*** the extent that the provisions of this chapter conflict with such a specific statute, the provisions of the specific statute control.

Sec. 8. NRS 353C.110 is hereby amended to read as follows:

353C.110 The ~~[Director of the Department of Administration and the Attorney General may jointly]~~ ***State Controller may*** adopt such regulations as are necessary to carry out the provisions of this chapter.

Sec. 9. NRS 353C.120 is hereby amended to read as follows:

353C.120 1. Each agency shall submit to the State Controller periodic reports of the debts owed to the agency. The State Controller shall maintain the reports ***.*** ~~[to the extent that resources are available. The Director of the Department of Administration and]~~ ***The State Controller and*** the Attorney General shall jointly prescribe the time, form and manner of the reports.

2. Except to the extent that the information on the reports is declared to be confidential by a specific statute of this State or federal law, the State Controller shall make the reports available for public inspection and may, without charge, make available for access on the Internet or its successor, if any, the information contained in the reports.

Sec. 10. NRS 353C.130 is hereby amended to read as follows:

353C.130 ~~[An agency]~~ ***The State Controller*** may enter into an agreement with a debtor which provides for the payment of a debt owed by the debtor to ~~[the]~~ ***an*** agency on an installment basis over a 12-month or lesser period. Upon good cause shown by the debtor, the ~~[agency]~~ ***State Controller*** may extend the period during which installment payments will be made for more than a 12-month period.

Sec. 11. NRS 353C.135 is hereby amended to read as follows:

353C.135 Except as otherwise provided by specific statute, a person who owes a debt of more than $200 pursuant to this chapter shall, in addition to the debt, pay as reimbursement for the costs and fees actually incurred to collect the debt an amount not to exceed ~~[25]~~ ***35*** percent of the amount of the debt or ~~[$25,000,]~~ ***$50,000,*** whichever is less. Any prejudgment or postjudgment interest on the debt authorized by law must not be included in the calculation of the costs and fees actually incurred to collect the debt.

Sec. 12. NRS 353C.140 is hereby amended to read as follows:

353C.140 If a person has not paid a debt that the person owes to an agency, the Attorney General, upon the request of the ~~[agency:]~~ ***State Controller:***

1. Except as otherwise provided in this section, shall bring an action in a court of competent jurisdiction; or

2. If the action is a small claim subject to chapter 73 of NRS, may bring an action in a court of competent jurisdiction,

➥ on behalf of this State ~~[and the agency]~~ to collect the debt, plus any applicable penalties and interest. The action must be brought not later than 4 years after the date on which the debt became due or within 5 years after the date on which a certificate of liability was last recorded pursuant to NRS 353C.180, as appropriate.

Sec. 13. NRS 353C.150 is hereby amended to read as follows:

353C.150 1. In addition to any other remedy provided for in this chapter, if a person who owes a debt to an agency:

(a) Fails to pay the debt when it is due, or fails to pay an agreed upon amount in satisfaction of the debt; or

(b) Defaults on a written or other agreement ~~[with an agency]~~ relating to the payment of the debt,

➥ the ~~[agency]~~ ***State Controller*** may, within 4 years after the date on which the debt became due or the date on which the debtor defaulted, as appropriate, file with the office of the clerk of a court of competent jurisdiction an application for the entry of summary judgment against the debtor for the amount due.

2. ~~[An agency that intends to file an application for the entry of summary judgment pursuant to this section]~~ ***The State Controller*** shall, not less than 15 days before the date on which ~~[the agency]~~ ***he*** intends to file the application, notify the debtor of ~~[its]~~ ***his*** intention to file the application. The notification must be sent by certified mail to the last known address of the debtor and must include the name of the agency ~~[,]~~ ***to which the debt is owed,*** the amount sought to be recovered and the date on which the application will be filed with the court.

3. An application for the entry of summary judgment must:

(a) Be accompanied by a certificate that specifies:

(1) The amount of the debt, including any interest and penalties due;

(2) The name and address of the debtor, as the name and address of the debtor appear on the records of the ~~[agency;]~~ ***State Controller;***

(3) The basis for the determination ~~[by the agency]~~ of the amount due; and

(4) That the ~~[agency]~~ ***State Controller*** has complied with the applicable provisions of law relating to the determination of the amount required to be paid; and

(b) Include:

(1) A request that judgment be entered against the debtor for the amount specified in the certificate; and

(2) Evidence that the debtor was notified of the application for the entry of summary judgment in accordance with subsection 2.

Sec. 14. NRS 353C.160 is hereby amended to read as follows:

353C.160 The court clerk, upon the filing of an application for the entry of summary judgment which complies with the requirements set forth in NRS 353C.150, shall forthwith enter a judgment ~~[for the agency]~~ against the debtor in the amount of the debt, plus any penalties and interest, as set forth in the certificate. The ~~[agency]~~ ***State Controller*** shall serve a copy of the judgment, together with a copy of the application and the certificate, upon the debtor against whom the judgment is entered, either by personal service or by mailing a copy to the last known address of the debtor ***.*** ~~[as it appears in the records of the agency.]~~

Sec. 15. NRS 353C.180 is hereby amended to read as follows:

353C.180 1. In addition to any other remedy provided for in this chapter, ~~[an agency]~~ ***the State Controller*** may, within 4 years after the date that a debt becomes due, record a certificate of liability in the office of a county recorder which states:

(a) The amount of the debt, together with any interest or penalties due thereon;

(b) The name and address of the debtor ***,*** as the name and address of the debtor appear on the records of the ~~[agency;]~~ ***State Controller;***

(c) That the ~~[agency]~~ ***State Controller*** has complied with all procedures required by law for determining the amount of the debt; and

(d) That the ~~[agency]~~ ***State Controller*** has notified the debtor in accordance with subsection 2.

2. ~~[An agency that intends to file a certificate of liability pursuant to this section]~~ ***The State Controller*** shall, not less than 15 days before the date on which ~~[the agency]~~ ***he*** intends to file the certificate, notify the debtor of ~~[its]~~ ***his*** intention to file the certificate. The notification must be sent by certified mail to the last known address of the debtor and must include the name of the agency ~~[,]~~ ***to which the debt is owed,*** the amount sought to be recovered and the date on which the certificate will be filed with the county recorder.

3. From the time of the recording of the certificate, the amount of the debt, including interest which accrues on the debt after the recording of the certificate, constitutes a lien upon all real and personal property situated in the county in which the certificate was recorded that is owned by the debtor or acquired by the debtor afterwards and before the lien expires. The lien has the force, effect and priority of a judgment lien on all real and personal property situated in the county in which the certificate was recorded and continues for 5 years after the date of recording unless sooner released or otherwise discharged.

4. Within 5 years after the date of the recording of the certificate or within 5 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by recording a new certificate in the office of the county recorder. From the date of recording, the lien is extended for 5 years to all real and personal property situated in the county that is owned by the debtor or acquired by the debtor afterwards, unless the lien is sooner released or otherwise discharged.

Sec. 16. NRS 353C.190 is hereby amended to read as follows:

353C.190 1. The State Controller may ~~[, to the extent that resources are available,]~~ offset any amount due an agency from a debtor against any amount owing to that debtor by any agency, regardless of whether the agency which owes the amount is the same agency to which the debtor owes the debt. Whenever the combined amount owing to a debtor by all agencies is insufficient to offset all the amounts due the agencies from the debtor, the State Controller shall allocate the amount available from the debtor among the agencies in such a manner as the State Controller determines is appropriate.

2. If a debtor who owes a debt to an agency has a claim against that agency or another agency and refuses or neglects to file his claim with the agency within a reasonable time, the ~~[head of the agency to which the debtor owes the debt]~~ ***State Controller*** may file the claim on behalf of the debtor. If the State Controller ~~[approves]~~ ***files*** the claim, it has the same force and effect as though filed by the debtor. The amount due the debtor from the agency is the net amount otherwise owing to the debtor after any offset as provided in this section.

3. The State Controller shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, the manner in which offsets will be allocated among agencies.

Sec. 17. NRS 353C.195 is hereby amended to read as follows:

353C.195 ***Except as otherwise provided in this section or by a specific statute ~~[,]~~ or federal law:***

1. The State Controller ~~[may, if requested by any state agency,]~~ ***shall*** act as the collection agent for ~~[that]~~ ***each*** agency.

2. ~~[If the State Controller acts as the collection agent for an agency, the agency may]~~ ***An agency shall*** coordinate all its debt collection efforts through the State Controller . ~~*[, including, without limitation, requesting the State Controller to prepare and send to a debtor the notice required pursuant to section 3 of this act.]*~~

3. ~~[An]~~ Unless an agency and the State Controller agree on a different time, an agency shall assign a debt to the State Controller for collection not later than ~~[:~~

~~*(a) Sixty]*~~ ***60 days after the debt becomes past due . ~~[; or~~***

~~*(b) If the debtor has requested an administrative hearing pursuant to section 3 of this act to contest the existence or amount of the debt and has obtained the final decision of the agency, 10 days after the exhaustion of any administrative remedies provided pursuant to chapter 233B of NRS.*~~

~~*4. The State Controller shall charge and collect from an agency a fee of $10 for each debt assigned to him by the agency for collection.]*~~

4. An agency shall not assign a debt to the State Controller for collection if the debt is administratively contested by the debtor. For the purposes of this subsection, a debt is not administratively contested if:

(a) The debtor and the agency have agreed on the existence and amount of the debt;

(b) The debtor has failed to contest timely the existence or amount of the debt in accordance with the administrative procedures prescribed by the agency; or

(c) The debtor has timely contested the debt in accordance with the administrative procedures prescribed by the agency and the agency has issued a final decision concerning the existence and amount of the debt.

5. Upon the request of an agency, the State Controller shall waive a requirement of this section:

(a) If the State Controller determines that the agency has the resources to engage in its own debt collection efforts; or

(b) For good cause shown.

6. If the State Controller waives the requirements of subsection 1 or 2 for an agency, the agency may exercise any right or remedy conferred on the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to 353C.230, inclusive, to collect a debt.

7. An agency that is authorized by specific statute to collect a debt on behalf of or in trust for a particular person or entity may assign the debt to the State Controller for collection pursuant to this section. If such an agency does not assign a debt to the State Controller pursuant to this section, the agency may, in addition to any right or remedy conferred on the agency by specific statute to collect a debt, exercise any right or remedy conferred on the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to 353C.230, inclusive, to collect the debt.

Sec. 18. NRS 353C.200 is hereby amended to read as follows:

353C.200 1. Except as otherwise provided in subsection 2, ***if*** an agency ***has assigned a debt to the State Controller for collection pursuant to NRS 353C.195, the State Controller*** may enter into a contract with a private debt collector or any other person for the assignment of the collection of ~~[a]~~ ***the*** debt if the ~~[agency:]~~ ***State Controller:***

(a) Determines the assignment is likely to generate more net revenue than equivalent efforts by the ~~[agency]~~ ***State Controller*** to collect the debt, including collection efforts pursuant to this chapter;

(b) Determines the assignment will not compromise future collections of state revenue; and

(c) Notifies the debtor in writing at his address of record that the debt will be turned over for private collection unless the ~~[debt is paid.]~~ ***debtor:***

(1) Pays the debt in full; or

(2) Enters into an agreement, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.

2. ~~[An agency shall not enter into a contract with a private debt collector or any other person for the assignment of the collection of a debt if the debt has been contested by the debtor.~~

~~3.]~~ A contract for the assignment of the collection of a debt may provide for:

(a) Payment by the ~~[agency]~~ ***State Controller*** to the private debt collector or other person of the costs of collection and fees for collecting the debt; or

(b) Collection by the private debt collector or other person from the debtor of the costs of collection and fees for collecting the debt.

~~[4.]~~ ~~*[3. Any contract entered into pursuant to this section is subject to approval by the]*~~ ~~[Director of the Department of Administration and the State Controller.]~~ ~~*[Attorney General.]*~~

Sec. 19. NRS 353C.210 is hereby amended to read as follows:

353C.210 1. Notwithstanding any specific statute to the contrary, ~~[an agency to which a debt is owed]~~ ***the State Controller*** may, in addition to any other remedy provided for in this chapter, give notice of the amount of ~~[the]~~ ***a*** debt ***owed to this State*** and a demand to transmit to any person, including, without limitation, any officer, agency or political subdivision of this State, who has in his possession or under his control any credits or other personal property belonging to the debtor ~~[,]~~ or who owes any debts to the debtor that remain unpaid. The notice and demand to transmit must be delivered personally or by certified or registered mail:

(a) Not later than 4 years after the debt became due; or

(b) Not later than 6 years after the last recording of an abstract of judgment pursuant to NRS 353C.170 or a certificate of liability pursuant to NRS 353C.180.

2. If such notice is given to an officer or agency of this State, the notice must be delivered before the ~~[agency which sent the notice]~~ ***State Controller*** may file a claim ~~[with the State Controller]~~ pursuant to NRS 353C.190 on behalf of the debtor.

3. An agency that receives a notice and demand to transmit pursuant to this section may satisfy any debt owed to it by the debtor before it honors the notice and demand to transmit. If the agency is holding a bond or other property of the debtor as security for debts owed or that may become due and owing by the debtor, the agency is not required to transmit the amount of the bond or other property unless the agency determines that holding the bond or other property of the debtor as security is no longer required.

4. Except as otherwise provided by specific statute, a person who receives a demand to transmit pursuant to this section shall not thereafter transfer or otherwise dispose of the credits or other personal property of, or debts owed to, the person who is the subject of the demand to transmit without the consent of the ~~[agency which sent the demand to transmit.]~~ ***State Controller.***

5. Except as otherwise provided by specific statute, a person who receives ~~[from an agency]~~ a demand to transmit pursuant to this section shall, within 10 days thereafter, inform the ~~[agency]~~ ***State Controller*** of, and transmit to the ~~[agency]~~ ***State Controller*** within the time and in the manner requested by the ~~[agency,]~~ ***State Controller,*** all credits or other personal property in his possession or control that belong to, and all debts that he owes to, the person who is the subject of the demand to transmit. Except as otherwise provided in subsection 6, no further notice is required to be served on such persons.

6. Except as otherwise provided by specific statute, if the property of the debtor consists of a series of payments owed to him, the person who owes or controls the payments shall transmit the payments to the ~~[agency which sent the demand to transmit]~~ ***State Controller*** until otherwise notified by the ~~[agency.]~~ ***State Controller.*** If the debt of the debtor is not paid within 1 year

after the date on which the ~~[agency]~~ ***State Controller*** issued the original demand to transmit, the ~~[agency]~~ ***State Controller*** shall:

(a) Issue another demand to transmit to the person responsible for making the payments that informs him to continue transmitting payments to the ~~[agency;]~~ ***State Controller;*** or

(b) Notify the person that his duty to transmit the payments to the ~~[agency]~~ ***State Controller*** has ceased.

7. If the notice and demand to transmit is intended to prevent the transfer or other disposition of a deposit in a bank or other depository institution, or of any other credit or personal property in the possession or under the control of the bank or depository institution, the notice must be delivered or mailed to any branch or office of the bank or depository institution at which the deposit is carried or the credit or personal property is held.

8. If any person to whom ~~[an agency]~~ ***the State Controller*** delivers a notice and demand to transmit transfers or otherwise disposes of any property or debts required by this chapter to be transmitted to the ~~[agency,]~~ ***State Controller,*** the person is, to the extent of the value of the property or the amount of the debts so transferred or disposed of, liable to the ~~[agency]~~ ***State Controller*** for any portion of the debt that the ~~[agency]~~ ***State Controller*** is unable to collect from the debtor solely by reason of the transfer or other disposition of the property or debt.

9. A debtor who owes a debt to an agency ***for*** which ***the State Controller*** delivers a notice and demand to transmit concerning the debtor pursuant to this section is entitled to an administrative hearing before that agency to challenge the collection of the debt pursuant to the demand to transmit. Each agency may adopt such regulations as are necessary to provide an administrative hearing for the purposes of this subsection.

Sec. 20. NRS 353C.220 is hereby amended to read as follows:

353C.220 1. If ~~[an agency]~~ ***the State Controller*** determines that it is impossible or impractical to collect a debt, ~~[the agency]~~ ***he*** may request the State Board of Examiners to designate the debt as a bad debt. The State Board of Examiners, by an affirmative vote of the majority of the members of the Board, may designate the debt as a bad debt if the Board is satisfied that the collection of the debt is impossible or impractical. If the debt is not more than $50, the State Board of Examiners may delegate to its Clerk the authority to designate the debt as a bad debt. ~~[An agency that is aggrieved by]~~ ***The State Controller may appeal*** a denial of a request to designate the debt as a bad debt by the Clerk ~~[may appeal that denial]~~ to the State Board of Examiners.

2. Upon the designation of a debt as a bad debt pursuant to this section, the State Board of Examiners or its Clerk shall immediately notify the State Controller thereof. Upon receiving the notification, the State Controller shall direct the removal of the debt from the books of account of the State of Nevada. A bad debt that is removed pursuant to this section remains a legal and binding obligation owed by the debtor to the State of Nevada.

3. ~~[If resources are available, the]~~ ***The*** State Controller shall keep a master file of all debts that are designated as bad debts pursuant to this section. ~~[If such a file is established and maintained, for]~~ ***For*** each such debt, the State Controller shall record the name of the debtor, the amount of the debt, the date on which the debt was incurred and the date on which it was removed from the records and books of account of ~~[the agency or]~~ the State of Nevada, and any other information concerning the debt that the State Controller determines is necessary.

Sec. 21. NRS 11.255 is hereby amended to read as follows:

11.255 1. ~~[The]~~ ***Except as otherwise provided in subsection 2, the*** provisions of this chapter ~~[concerning actions other than for the recovery of real property shall]~~ ***do not*** apply to actions ***which accrue on or after the effective date of this act that are*** brought in the name of the State ~~[,]~~ or for the benefit of the State ***.*** ~~[, in the same manner as to actions by private individuals.]~~

2. ~~[Except as provided in]~~ ***The provisions of*** NRS 11.030 and 11.040 ~~[, there shall be no limitation of]~~ ***apply to*** actions brought in the name of the State, or for the benefit of the State, for the recovery of real property.

Sec. 21.3. **NRS 616C.220 is hereby amended to read as follows:**

616C.220 1. The Division shall designate one:

(a) Third-party administrator who has a valid certificate issued by the Commissioner pursuant to NRS 683A.085; or

(b) Insurer, other than a self-insured employer or association of self-insured public or private employers,

➥ to administer claims against the uninsured employers' claim account. The designation must be made pursuant to reasonable competitive bidding procedures established by the Administrator.

2. Except as otherwise provided in this subsection, an employee may receive compensation from the uninsured employers' claim account if:

(a) He was hired in this State or he is regularly employed in this State;

(b) He suffers an accident or injury which arises out of and in the course of his employment:

(1) In this State; or

(2) While on temporary assignment outside the State for not more than 12 months;

(c) He files a claim for compensation with the Division; and

(d) He makes an irrevocable assignment to the Division of a right to be subrogated to the rights of the injured employee pursuant to NRS 616C.215.

➥ An employee who suffers an accident or injury while on temporary assignment outside the State is not eligible to receive compensation from the uninsured employers' claim account unless he has been denied workers' compensation in the state in which the accident or injury occurred.

3. If the Division receives a claim pursuant to subsection 2, the Division shall immediately notify the employer of the claim.

4. For the purposes of this section, the employer has the burden of proving that he provided mandatory industrial insurance coverage for the employee or that he was not required to maintain industrial insurance for the employee.

5. Any employer who has failed to provide mandatory coverage required by the provisions of chapters 616A to 616D, inclusive, of NRS is liable for all payments made on his behalf, including any benefits, administrative costs or attorney's fees paid from the uninsured employers' claim account or incurred by the Division.

6. The Division:

(a) May recover from the employer the payments made by the Division that are described in subsection 5 and any accrued interest by bringing a civil action in a court of competent jurisdiction. ***For the purposes of this paragraph, the payments made by the Division that are described in subsection 5 are presumed to be:***

(1) Justified by the circumstances of the claim;

(2) Made in accordance with applicable law; and

(3) Reasonable and necessary.

(b) In any civil action brought against the employer, is not required to prove that negligent conduct by the employer was the cause of the employee's injury.

(c) May enter into a contract with any person to assist in the collection of any liability of an uninsured employer.

(d) In lieu of a civil action, may enter into an agreement or settlement regarding the collection of any liability of an uninsured employer.

7. The Division shall:

(a) Determine whether the employer was insured within 30 days after receiving notice of the claim from the employee.

(b) Assign the claim to the third-party administrator or insurer designated pursuant to subsection 1 for administration and payment of compensation.

➥ Upon determining whether the claim is accepted or denied, the designated third-party administrator or insurer shall notify the injured employee, the named employer and the Division of its determination.

8. Upon demonstration of the:

(a) Costs incurred by the designated third-party administrator or insurer to administer the claim or pay compensation to the injured employee; or

(b) Amount that the designated third-party administrator or insurer will pay for administrative expenses or compensation to the injured employee and that such amounts are justified by the circumstances of the claim,

➥ the Division shall authorize payment from the uninsured employers' claim account.

9. Any party aggrieved by a determination made by the Division regarding the assignment of any claim made pursuant to this section may appeal that determination by filing a notice of appeal with an appeals officer within 30 days after the determination is rendered. The provisions of

NRS 616C.345 to 616C.385, inclusive, apply to an appeal filed pursuant to this subsection.

10. Any party aggrieved by a determination to accept or to deny any claim made pursuant to this section or by a determination to pay or to deny the payment of compensation regarding any claim made pursuant to this section may appeal that determination, within 70 days after the determination is rendered, to the Hearings Division of the Department of Administration in the manner provided by NRS 616C.305 and 616C.315.

11. All insurers shall bear a proportionate amount of a claim made pursuant to chapters 616A to 616D, inclusive, of NRS, and are entitled to a proportionate amount of any collection made pursuant to this section as an offset against future liabilities.

12. An uninsured employer is liable for the interest on any amount paid on his claims from the Uninsured Employers' Claim Account. The interest must be calculated at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the claim, plus 3 percent, compounded monthly, from the date the claim is paid from the account until payment is received by the Division from the employer.

13. Attorney's fees recoverable by the Division pursuant to this section must be:

(a) If a private attorney is retained by the Division, paid at the usual and customary rate for that attorney.

(b) If the attorney is an employee of the Division, paid at the rate established by regulations adopted by the Division.

➥ Any money collected must be deposited to the Uninsured Employers' Claim Account.

14. In addition to any other liabilities provided for in this section, the Administrator may impose an administrative fine of not more than $10,000 against an employer if the employer fails to provide mandatory coverage required by the provisions of chapters 616A to 616D, inclusive, of NRS.

15. If the Division assigns a debt that arises under this section to the State Controller for collection pursuant to NRS 353C.195, the State Controller may bring an action in his own name in a court of competent jurisdiction to recover any amount that the Division is authorized to recover pursuant to this section.

Sec. 21.7. **NRS 617.401 is hereby amended to read as follows:**

617.401 1. The Division shall designate one:

(a) Third-party administrator who has a valid certificate issued by the Commissioner pursuant to NRS 683A.085; or

(b) Insurer, other than a self-insured employer or association of self-insured public or private employers,

➥ to administer claims against the Uninsured Employers' Claim Account. The designation must be made pursuant to reasonable competitive bidding procedures established by the Administrator.

2. Except as otherwise provided in this subsection, an employee may receive compensation from the Uninsured Employers' Claim Account if:

(a) He was hired in this State or he is regularly employed in this State;

(b) He contracts an occupational disease that arose out of and in the course of employment:

(1) In this State; or

(2) While on temporary assignment outside the State for not more than 12 months;

(c) He files a claim for compensation with the Division; and

(d) He makes an irrevocable assignment to the Division of a right to be subrogated to the rights of the employee pursuant to NRS 616C.215.

➥ An employee who contracts an occupational disease that arose out of and in the course of employment while on temporary assignment outside the State is not entitled to receive compensation from the Uninsured Employers' Claim Account unless he has been denied workers' compensation in the state in which the disease was contracted.

3. If the Division receives a claim pursuant to subsection 2, the Division shall immediately notify the employer of the claim.

4. For the purposes of this section, the employer has the burden of proving that he provided mandatory coverage for occupational diseases for the employee or that he was not required to maintain industrial insurance for the employee.

5. Any employer who has failed to provide mandatory coverage required by the provisions of this chapter is liable for all payments made on his behalf, including, but not limited to, any benefits, administrative costs or attorney's fees paid from the Uninsured Employers' Claim Account or incurred by the Division.

6. The Division:

(a) May recover from the employer the payments made by the Division that are described in subsection 5 and any accrued interest by bringing a civil action in a court of competent jurisdiction. ***For the purposes of this paragraph, the payments made by the Division that are described in subsection 5 are presumed to be:***

(1) Justified by the circumstances of the claim;

(2) Made in accordance with applicable law; and

(3) Reasonable and necessary.

(b) In any civil action brought against the employer, is not required to prove that negligent conduct by the employer was the cause of the occupational disease.

(c) May enter into a contract with any person to assist in the collection of any liability of an uninsured employer.

(d) In lieu of a civil action, may enter into an agreement or settlement regarding the collection of any liability of an uninsured employer.

7. The Division shall:

(a) Determine whether the employer was insured within 30 days after receiving the claim from the employee.

(b) Assign the claim to the third-party administrator or insurer designated pursuant to subsection 1 for administration and payment of compensation.

➥ Upon determining whether the claim is accepted or denied, the designated third-party administrator or insurer shall notify the injured employee, the named employer and the Division of its determination.

8. Upon demonstration of the:

(a) Costs incurred by the designated third-party administrator or insurer to administer the claim or pay compensation to the injured employee; or

(b) Amount that the designated third-party administrator or insurer will pay for administrative expenses or compensation to the injured employee and that such amounts are justified by the circumstances of the claim,

➥ the Division shall authorize payment from the Uninsured Employers' Claim Account.

9. Any party aggrieved by a determination made by the Division regarding the assignment of any claim made pursuant to this section may appeal that determination by filing a notice of appeal with an appeals officer within 30 days after the determination is rendered. The provisions of NRS 616C.345 to 616C.385, inclusive, apply to an appeal filed pursuant to this subsection.

10. Any party aggrieved by a determination to accept or to deny any claim made pursuant to this section or by a determination to pay or to deny the payment of compensation regarding any claim made pursuant to this section may appeal that determination, within 70 days after the determination is rendered, to the Hearings Division of the Department of Administration in the manner provided by NRS 616C.305 and 616C.315.

11. All insurers shall bear a proportionate amount of a claim made pursuant to this chapter, and are entitled to a proportionate amount of any collection made pursuant to this section as an offset against future liabilities.

12. An uninsured employer is liable for the interest on any amount paid on his claims from the Uninsured Employers' Claim Account. The interest must be calculated at a rate equal to the prime rate at the largest bank in Nevada, as ascertained by the Commissioner of Financial Institutions, on January 1 or July 1, as the case may be, immediately preceding the date of the claim, plus 3 percent, compounded monthly, from the date the claim is paid from the Account until payment is received by the Division from the employer.

13. Attorney's fees recoverable by the Division pursuant to this section must be:

(a) If a private attorney is retained by the Division, paid at the usual and customary rate for that attorney.

(b) If the attorney is an employee of the Division, paid at the rate established by regulations adopted by the Division.

➥ Any money collected must be deposited to the Uninsured Employers' Claim Account.

14. In addition to any other liabilities provided for in this section, the Administrator may impose an administrative fine of not more than $10,000 against an employer if the employer fails to provide mandatory coverage required by the provisions of this chapter.

15. If the Division assigns a debt that arises under this section to the State Controller for collection pursuant to NRS 353C.195, the State Controller may bring an action in his own name in a court of competent jurisdiction to recover any amount that the Division is authorized to recover pursuant to this section.

Sec. 22. A regulation jointly adopted by the Director of the Department of Administration and the Attorney General pursuant to NRS 353C.110 remains in effect until it is amended or repealed by the State Controller pursuant to the amendatory provisions of this act.

Sec. 23. This act becomes effective:

1. Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

2. On July 1, 2009, for all other purposes.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Kirkpatrick moved that upon return from the printer, Assembly Bill No. 87 be placed on the Chief Clerk's desk.

Motion carried.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 1:21 p.m.

ASSEMBLY IN SESSION

At 1:27 p.m.

Madam Speaker presiding.

Quorum present.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 493 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Horne moved that Assembly Bill No. 251 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Atkinson moved that upon return from the printer, Assembly Bill No. 504 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that upon return from the printer, Assembly Bill No. 317 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Denis moved that upon returned from the printer, Assembly Bill No. 489 be rereferred to the Committee on Ways and Means.

Motion carried.

Assemblyman Oceguera moved that the Assembly recess until 4 p.m.

Motion carried.

Assembly in recess at 1:35 p.m.

ASSEMBLY IN SESSION

At 5:20 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Commerce and Labor, to which were referred Assembly Bills Nos. 22, 24, 162, 355, 370, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARCUS CONKLIN, *Chairman*

Madam Speaker:

Your Committee on Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 442, 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 Elections, Procedures, Ethics, and Constitutional Amendments, to which was referred Assembly Bill No. 82, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended and rerefer to the Committee on Ways and Means.

ELLEN M. KOIVISTO, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 54, 119, 395, 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 Government Affairs, to which was referred Assembly Bill No. 409, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended and rerefer to the Committee on Ways and Means.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Assembly Bills Nos. 320, 496, 500 has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Judiciary, to which was rereferred Assembly Bill No. 8, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended and rerefer to the Committee on Ways and Means.

BERNIE ANDERSON, *Chairman*

Madam Speaker:

Your Committee on Transportation, to which was referred Assembly Bill No. 333, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

KELVIN ATKINSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

April 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 252.

MARK STEVENS
Fiscal Analysis Division

April 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 309.

GARY GHIGGERI
Fiscal Analysis Division

Assemblyman Oceguera moved that Assembly Bills Nos. 8, 22, 24, 54, 82, 119, 162, 320, 333, 355, 370, 395, 409, 442, 496, and 500 just reported out of committee, be placed on the Second Reading File.

Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 313 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 63 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblywoman Smith moved that Assembly Bill No. 10 be taken from the Chief Clerk's desk and placed at the top of General File.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill No. 508 be taken from the Chief Clerk's desk and placed on the General File immediately following Assembly Bill No. 313.

Motion carried.

Assembly Bill No. 10.

Bill read third time.

The following amendment was proposed by Assemblyman Arberry:

Amendment No. 526.

SUMMARY—~~[Prohibits retaliation or discrimination against registered nurses, licensed practical nurses and nursing assistants who report certain information relating to the safety of patients.]~~ **Makes various changes concerning certain health care professionals who report certain information to licensing boards or other governmental entities or who cooperate in investigations of certain health care professionals.** (BDR 40-219)

AN ACT relating to health care; prohibiting certain retaliation or discrimination against registered nurses, licensed practical nurses and nursing assistants who report certain information, refuse to engage in certain conduct or participate in certain investigations or proceedings relating to the safety of patients; providing civil remedies and civil penalties for violations; **prohibiting the licensing boards of physicians from taking adverse action against a physician who discloses or cooperates in the investigation of a violation of any law, rule or regulation by an applicant or licensee;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a medical facility, physician or osteopathic physician from retaliating or discriminating against an employee who reports **in good faith** information concerning the conduct of a physician or osteopathic physician to the Board of Medical Examiners or the State Board of Osteopathic Medicine, reports **in good faith** a sentinel event to the Health Division of the Department of Health and Human Services or cooperates or participates in **good faith in** an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity concerning the conduct or sentinel event. Existing law also prohibits such retaliation or discrimination against a registered nurse, licensed practical nurse or nursing assistant who refuses to provide nursing services that he does not have the knowledge, skill or experience to provide. (NRS 449.205, 630.293, 633.505)

Sections 1, 3 and 5 of this bill provide additional protection against retaliation or discrimination for a registered nurse, licensed practical nurse or nursing assistant who: (1) reports **in good faith** certain information or concerns regarding the safety of patients; or (2) refuses to engage in conduct which would violate his duty to protect patients from actual or potential harm or which would subject him to disciplinary action by the State Board of Nursing. **Sections 1, 3 and 5 also add a definition of "good faith."**

Existing law provides that an employee of a medical facility, physician or osteopathic physician or a registered nurse, licensed practical nurse or

nursing assistant who is employed by or contracts to provide nursing services for the medical facility, physician or osteopathic physician may file an action in court based on retaliation or discrimination. (NRS 449.207, 630.296, 633.507) **Sections 2, 4 and 6** of this bill expand these provisions by authorizing the court in such an action to award compensatory damages, reimbursement of lost wages and benefits, attorney's fees and punitive damages and to grant any equitable relief it considers appropriate. **Sections 2, 4 and 6** also provide that the Attorney General or any district attorney of this State may bring a civil action in the name of the State of Nevada to recover a civil penalty of not more than $10,000 for each such act of retaliation or discrimination.

Existing law provides immunity from civil liability to physicians, homeopathic physicians and osteopathic physicians for providing certain information concerning an applicant for a license or a licensee in good faith to their licensing boards and others for the decisions or actions taken by them in good faith in response to information received by the board. (NRS 630.364, 630A.540, 633.691) Sections 4.3, 4.7 and 7 of this bill further prohibit the licensing board of a physician, homeopathic physician or osteopathic physician from taking any adverse action against a physician, homeopathic physician or osteopathic physician for disclosing a violation of any law, rule or regulation to a governmental entity or for cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation.

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

Section 1. NRS 449.205 is hereby amended to read as follows:

449.205 1. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against:

(a) An employee of the medical facility or a person acting on behalf of the employee who in good faith:

(1) Reports to the Board of Medical Examiners or the State Board of Osteopathic Medicine, as applicable, information relating to the conduct of a physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

(2) Reports a sentinel event to the Health Division pursuant to NRS 439.835; or

(3) Cooperates or otherwise participates in an investigation or proceeding conducted by the Board of Medical Examiners, the State Board of Osteopathic Medicine or another governmental entity relating to conduct described in subparagraph (1) or (2) ~~[.]~~ ***; or***

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility and who ~~[, in]~~ ***:***

(1) In accordance with the policy, if any, established by the medical facility:

~~[(1)]~~ ***(I)*** Reports to his immediate supervisor, in writing, that he does not possess the knowledge, skill or experience to comply with an assignment to provide nursing services to a patient; and

~~[(2)]~~ ***(II)*** Refuses to provide to a patient nursing services for which, as verified by documentation in the personnel file of the registered nurse, licensed practical nurse or nursing assistant concerning his competence to provide various nursing services, he does not possess the knowledge, skill or experience to comply with the assignment to provide nursing services to the patient, unless ~~[such]~~ ***the*** refusal constitutes unprofessional conduct as set forth in chapter 632 of NRS or any regulations adopted pursuant thereto ~~[.]~~ ***;***

(2) ~~*[Reports]*~~ ***In good faith, reports to the medical facility, the Board of Medical Examiners, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:***

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the medical facility or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the medical facility, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(3) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing.

2. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility because the employee, registered nurse, licensed practical nurse or nursing assistant has taken an action described in subsection 1.

3. A medical facility or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any

other manner the right of an employee of the medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility to take an action described in subsection 1.

4. As used in this section:

(a) ***"Good faith" means honesty in fact in the reporting of the information or in the cooperation in the investigation concerned.***

(b) "Physician" means a person licensed to practice medicine pursuant to chapter 630 or 633 of NRS.

~~[(b)]~~ ***(c)*** "Retaliate or discriminate":

(1) Includes, without limitation, ***any of*** the following ~~[action if such action is]~~ ***actions if*** taken solely because the employee ***,*** ~~[or the]~~ registered nurse, licensed practical nurse or nursing assistant took an action described in subsection 1:

(I) Frequent or undesirable changes in the location where the ~~[employee]~~ ***person*** works;

(II) Frequent or undesirable transfers or reassignments;

(III) The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

(IV) A demotion;

(V) A reduction in pay;

(VI) The denial of a promotion;

(VII) A suspension;

(VIII) A dismissal;

(IX) A transfer; or

(X) Frequent changes in working hours or workdays.

(2) Does not include ***an*** action described in sub-subparagraphs (I) to (X), inclusive, of subparagraph (1) if the action is taken in the normal course of employment or as a form of discipline.

Sec. 2. NRS 449.207 is hereby amended to read as follows:

449.207 ***1.*** An employee of a medical facility or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the medical facility ***and*** who believes that he has been retaliated or discriminated against in violation of NRS 449.205 may file an action in a court of competent jurisdiction ***.*** ~~[for such relief as may be appropriate under the law.]~~

2. If a court determines that a violation of NRS 449.205 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.

5. If any action to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 449.205, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing assistant constitutes retaliation or discrimination in violation of NRS 449.205.

6. A medical facility or any agent or employee thereof that violates the provisions of NRS 449.205 is subject to a civil penalty of not more than $10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 449.205.

Sec. 3. NRS 630.293 is hereby amended to read as follows:

630.293 1. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against ~~[an]~~ ***:***

(a) An employee of the physician or a person acting on behalf of the employee who in good faith:

~~[(a)]~~ ***(1)*** Reports to the Board ***of Medical Examiners*** information relating to the conduct of the physician which may constitute grounds for initiating disciplinary action against the physician or which otherwise raises a reasonable question regarding the competence of the physician to practice medicine with reasonable skill and safety to patients;

~~[(b)]~~ ***or***

(2) Reports a sentinel event to the Health Division ***of the Department of Health and Human Services*** pursuant to NRS 439.835;

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who:

(1) ~~*[Reports]*~~ ***In good faith, reports to the physician, the Board of Medical Examiners, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:***

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or

(c) ~~[~~Cooperates~~]~~ ***An employee of the physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and who cooperates*** or otherwise participates in an investigation or proceeding conducted by the Board ***of Medical Examiners*** or another governmental entity relating to conduct described in paragraph (a) or (b).

2. A physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician*** because the employee ***, registered nurse, licensed practical nurse or nursing assistant*** has taken an action described in subsection 1.

3. A physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician*** to take an action described in subsection 1.

4. As used in this section, "retaliate or discriminate":

(a) ***"Good faith" means honesty in fact in the reporting of the information or in the cooperation of the investigation concerned.***

(b) "Retaliate or discriminate":

(1) Includes, without limitation, ***any of*** the following ~~[~~action if such action is~~]~~ ***actions if*** taken solely because the employee ***, registered nurse, licensed practical nurse or nursing assistant*** took an action described in subsection 1:

~~[(1)]~~ ***(I)*** Frequent or undesirable changes in the location where the ~~[employee]~~ ***person*** works;

~~[(2)]~~ ***(II)*** Frequent or undesirable transfers or reassignments;

~~[(3)]~~ ***(III)*** The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

~~[(4)]~~ ***(IV)*** A demotion;

~~[(5)]~~ ***(V)*** A reduction in pay;

~~[(6)]~~ ***(VI)*** The denial of a promotion;

~~[(7)]~~ ***(VII)*** A suspension;

~~[(8)]~~ ***(VIII)*** A dismissal;

~~[(9)]~~ ***(IX)*** A transfer; or

~~[(10)]~~ ***(X)*** Frequent changes in working hours or workdays.

~~[(b)]~~ ***(2)*** Does not include ***an*** action described in ~~[subparagraphs (1) to (10),]~~ ***sub-subparagraphs (I) to (X),*** inclusive, of ~~[paragraph (a)]~~ ***subparagraph (1)*** if the action is taken in the normal course of employment or as a form of discipline.

Sec. 4. NRS 630.296 is hereby amended to read as follows:

630.296 ***1.*** An employee of a physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the physician and*** who believes that he has been retaliated or discriminated against in violation of NRS 630.293 may file an action in a court of competent jurisdiction **.** ~~[for such relief as may be appropriate.]~~

2. If a court determines that a violation of NRS 630.293 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.

5. If any action to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 630.293, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing

assistant constitutes retaliation or discrimination in violation of NRS 630.293.

6. A physician or any agent or employee thereof that violates the provisions of NRS 630.293 is subject to a civil penalty of not more than $10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 630.293.

Sec. 4.3. **NRS 630.364 is hereby amended to read as follows:**

630.364 1. Any person or organization who furnishes information concerning an applicant for a license or a licensee in good faith ~~[and without malicious intent]~~ in accordance with the provisions of this chapter is immune from any civil action for furnishing that information.

2. The Board and any of its members and its staff, counsel, investigators, experts, peer reviewers, committees, panels, hearing officers, consultants and the employees or volunteers of a diversion program are immune from any civil liability for:

(a) Any decision or action taken in good faith ~~[and without malicious intent]~~ in response to information acquired by the Board.

(b) Disseminating information concerning an applicant for a license or a licensee to other boards or agencies of the State, the Attorney General, any hospitals, medical societies, insurers, employers, patients and their families or any law enforcement agency.

3. ***The Board shall not commence an investigation, impose any disciplinary action or take any other adverse action against a physician for:***

(a) Disclosing to a governmental entity a violation of any law, rule or regulation by an applicant for a license to practice medicine or by a physician; or

(b) Cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation, including, without limitation, providing testimony concerning the violation.

4. As used in this section ~~[, "diversion]~~ **:**

(a) "Diversion program" means a program approved by the Board to correct a licensee's alcohol or drug dependence or any other impairment.

(b) "Governmental entity" includes, without limitation:

(1) A federal, state or local officer, employee, agency, department, division, bureau, board, commission, council, authority or other subdivision or entity of a public employer;

(2) A federal, state or local employee, committee, member or commission of the Legislative Branch of Government;

(3) A federal, state or local representative, member or employee of a legislative body or a county, town, village or any other political subdivision or civil division of the State;

(4) A federal, state or local law enforcement agency or prosecutorial office, or any member or employee thereof, or police or peace officer; and

(5) A federal, state or local judiciary, or any member or employee thereof, or grand or petit jury.

Sec. 4.7. **NRS 630A.540 is hereby amended to read as follows:**

630A.540 ***1.*** In addition to any other immunity provided by the provisions of chapter 622A of NRS:

~~[1.]~~ ***(a)*** Any person who furnishes information to the Board, in good faith ~~[and without malicious intent]~~ in accordance with the provisions of this chapter, concerning a person who is licensed or certified or applies for a license or certificate under this chapter is immune from civil liability for furnishing that information.

~~[2.]~~ ***(b)*** The Board and its members, staff, counsel, investigators, experts, committees, panels, hearing officers and consultants are immune from civil liability for any decision or action taken in good faith ~~[and without malicious intent]~~ in response to information received by the Board.

~~[3.]~~ ***(c)*** The Board and any of its members are immune from civil liability for disseminating information concerning a person who is licensed or certified or applies for a license or certificate under this chapter to the Attorney General or any board or agency of the State, hospital, medical society, insurer, employer, patient or his family or law enforcement agency.

2. The Board shall not commence an investigation, impose any disciplinary action or take any other adverse action against a homeopathic physician for:

(a) Disclosing to a governmental entity a violation of any law, rule or regulation by an applicant for a license to practice homeopathic medicine or by a homeopathic physician; or

(b) Cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation, including, without limitation, providing testimony concerning the violation.

3. As used in this section, "governmental entity" includes, without limitation:

(a) A federal, state or local officer, employee, agency, department, division, bureau, board, commission, council, authority or other subdivision or entity of a public employer;

(b) A federal, state or local employee, committee, member or commission of the Legislative Branch of Government;

(c) A federal, state or local representative, member or employee of a legislative body or a county, town, village or any other political subdivision or civil division of the State;

(d) A federal, state or local law enforcement agency or prosecutorial office, or any member or employee thereof, or police or peace officer; and

(e) A federal, state or local judiciary, or any member or employee thereof, or grand or petit jury.

Sec. 5. NRS 633.505 is hereby amended to read as follows:

633.505 1. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against ~~[an]~~ ***:***

(a) An employee of the osteopathic physician or a person acting on behalf of the employee who in good faith:

~~[(a)]~~ ***(1)*** Reports to the ***State*** Board ***of Osteopathic Medicine*** information relating to the conduct of the osteopathic physician which may constitute grounds for initiating disciplinary action against the osteopathic physician or which otherwise raises a reasonable question regarding the competence of the osteopathic physician to practice medicine with reasonable skill and safety to patients;

~~[(b)]~~ ***or***

(2) Reports a sentinel event to the Health Division ***of the Department of Health and Human Services*** pursuant to NRS 439.835;

(b) A registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who:

(1) ~~*[Reports]*~~ ***In good faith, reports to the osteopathic physician, the State Board of Osteopathic Medicine, the State Board of Nursing, the Legislature or any committee thereof or any other governmental entity:***

(I) Any information concerning the willful conduct of another registered nurse, licensed practical nurse or nursing assistant which violates any provision of chapter 632 of NRS or which is required to be reported to the State Board of Nursing;

(II) Any concerns regarding patients who may be exposed to a substantial risk of harm as a result of the failure of the osteopathic physician or any agent or employee thereof to comply with minimum professional or accreditation standards or applicable statutory or regulatory requirements; or

(III) Any other concerns regarding the osteopathic physician, the agents and employees thereof or any situation that reasonably could result in harm to patients; or

(2) Refuses to engage in conduct that would violate the duty of the registered nurse, licensed practical nurse or nursing assistant to protect patients from actual or potential harm, including, without limitation, conduct which would violate any provision of chapter 632 of NRS or which would subject the registered nurse, licensed practical nurse or nursing assistant to disciplinary action by the State Board of Nursing; or

(c) ~~[Cooperates]~~ ***An employee of the osteopathic physician, a person acting on behalf of the employee or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and who cooperates*** or otherwise participates in an investigation or proceeding conducted by the

State Board ***of Osteopathic Medicine*** or another governmental entity relating to conduct described in paragraph (a) or (b).

2. An osteopathic physician or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the osteopathic physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician*** because the employee ***, registered nurse, licensed practical nurse or nursing assistant*** has taken an action described in subsection 1.

3. An osteopathic physician or any agent or employee thereof shall not prohibit, restrict or attempt to prohibit or restrict by contract, policy, procedure or any other manner the right of an employee of the osteopathic physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician*** to take an action described in subsection 1.

4. As used in this section, "retaliate or discriminate":

(a) ***"Good faith" means honesty in fact in the reporting of the information or in the cooperation in the investigation concerned.***

(b) "Retaliate or discriminate":

(1) Includes, without limitation, ***any of*** the following ~~[~~action if such action is~~]~~ ***actions if*** taken solely because the employee ***, registered nurse, licensed practical nurse or nursing assistant*** took an action described in subsection 1:

~~[(1)]~~ ***(I)*** Frequent or undesirable changes in the location where the ~~[~~employee~~]~~ ***person*** works;

~~[(2)]~~ ***(II)*** Frequent or undesirable transfers or reassignments;

~~[(3)]~~ ***(III)*** The issuance of letters of reprimand, letters of admonition or evaluations of poor performance;

~~[(4)]~~ ***(IV)*** A demotion;

~~[(5)]~~ ***(V)*** A reduction in pay;

~~[(6)]~~ ***(VI)*** The denial of a promotion;

~~[(7)]~~ ***(VII)*** A suspension;

~~[(8)]~~ ***(VIII)*** A dismissal;

~~[(9)]~~ ***(IX)*** A transfer; or

~~[(10)]~~ ***(X)*** Frequent changes in working hours or workdays.

~~[(b)]~~ ***(2)*** Does not include ***an*** action described in ~~[~~subparagraphs (1) to (10),~~]~~ ***sub-subparagraphs (I) to (X),*** inclusive, of ~~[~~paragraph (a)~~]~~ ***subparagraph (1)*** if the action is taken in the normal course of employment or as a form of discipline.

Sec. 6. NRS 633.507 is hereby amended to read as follows:

633.507 ***1.*** An employee of an osteopathic physician ***or a registered nurse, licensed practical nurse or nursing assistant who is employed by or contracts to provide nursing services for the osteopathic physician and*** who believes that he has been retaliated or discriminated against in violation of

NRS 633.505 may file an action in a court of competent jurisdiction **.** ~~[for such relief as may be appropriate under the law.]~~

2. If a court determines that a violation of NRS 633.505 has occurred, the court may award such damages as it determines to have resulted from the violation, including, without limitation:

(a) Compensatory damages;

(b) Reimbursement of any wages, salary, employment benefits or other compensation denied to or lost by the employee, registered nurse, licensed practical nurse or nursing assistant as a result of the violation;

(c) Attorney's fees and costs, including, without limitation, fees for expert witnesses; and

(d) Punitive damages, if the facts warrant.

3. The court shall award interest on the amount of damages at a rate determined pursuant to NRS 17.130.

4. The court may grant any equitable relief it considers appropriate, including, without limitation, reinstatement of the employee, registered nurse, licensed practical nurse or nursing assistant and any temporary, preliminary or permanent injunctive relief.

5. If any action to retaliate or discriminate is taken against an employee, registered nurse, licensed practical nurse or nursing assistant within 60 days after the employee, registered nurse, licensed practical nurse or nursing assistant takes any action described in subsection 1 of NRS 633.505, there is a rebuttable presumption that the action taken against the employee, registered nurse, licensed practical nurse or nursing assistant constitutes retaliation or discrimination in violation of NRS 633.505.

6. An osteopathic physician or any agent or employee thereof that violates the provisions of NRS 633.505 is subject to a civil penalty of not more than $10,000 for each violation. The Attorney General or any district attorney of this State may recover the penalty in a civil action brought in the name of the State of Nevada in any court of competent jurisdiction.

7. Any action under this section must be brought not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

8. As used in this section, "retaliate or discriminate" has the meaning ascribed to it in NRS 633.505.

Sec. 7. **NRS 633.691 is hereby amended to read as follows:**

633.691 ***1.*** In addition to any other immunity provided by the provisions of chapter 622A of NRS, the Board, a medical review panel of a hospital, a hearing officer, a panel of the Board, or any person who or other organization which initiates or assists in any lawful investigation or proceeding concerning the discipline of an osteopathic physician for gross malpractice, repeated malpractice, professional incompetence or unprofessional conduct is immune from any civil action for such initiation or

assistance or any consequential damages, if the person or organization acted ~~[without malicious intent.]~~ ***in good faith.***

2. The Board shall not commence an investigation, impose any disciplinary action or take any other adverse action against an osteopathic physician for:

(a) Disclosing to a governmental entity a violation of a law, rule or regulation by an applicant for a license to practice osteopathic medicine or by an osteopathic physician; or

(b) Cooperating with a governmental entity that is conducting an investigation, hearing or inquiry into such a violation, including, without limitation, providing testimony concerning the violation.

3. As used in this section, "governmental entity" includes, without limitation:

(a) A federal, state or local officer, employee, agency, department, division, bureau, board, commission, council, authority or other subdivision or entity of a public employer;

(b) A federal, state or local employee, committee, member or commission of the Legislative Branch of Government;

(c) A federal, state or local representative, member or employee of a legislative body or a county, town, village or any other political subdivision or civil division of the State;

(d) A federal, state or local law enforcement agency or prosecutorial office, or any member or employee thereof, or police or peace officer; and

(e) A federal, state or local judiciary, or any member or employee thereof, or grand or petit jury.

~~[Sec. 7.]~~ ***Sec. 8.*** This act becomes effective on July 1, 2009.

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 63.

Bill read third time.

The following amendment was proposed by Assemblywoman Buckley:

Amendment No. 535.

AN ACT relating to justice courts; authorizing the appointment of masters in justice courts under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes the appointment of masters in justice courts to perform certain duties as approved by the Nevada Supreme Court. The master must possess qualifications which are at least equal to those required of a justice of the peace in the township in which the master is appointed, and the master **may not perform any duties of a master until the master has completed the course of instruction prescribed by the Nevada Supreme Court. Further, the master** is entitled to receive a salary

or a per diem salary set by the board of county commissioners. However, a master may not preside over: (1) any misdemeanor action for an act of domestic violence, vehicular manslaughter or driving under the influence; or (2) any preliminary hearing for a gross misdemeanor or felony.

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

Section 1. Chapter 4 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In any county in which the appointment of masters by a justice court is authorized by the board of county commissioners, the local rules of practice adopted in a justice court within the county may authorize the appointment of one or more masters to perform certain duties that the Supreme Court has approved. If the justice court elects to appoint a master or masters, the local rules of practice adopted in that court must set forth the selection process for choosing a master.

2. A master appointed pursuant to subsection 1 must possess qualifications that are equal to or greater than the qualifications required of the justice of the peace for the township in which the master is appointed as set forth in NRS 4.010.

3. The Supreme Court shall provide by rule for a course of instruction in the elements of substantive law relating to the duties of any master appointed pursuant to subsection 1. A master appointed pursuant to subsection 1 may not perform any duties of a master until he has completed the course of instruction described in this subsection.

4. A master appointed pursuant to subsection 1 may not preside over:

(a) Any trial for a misdemeanor constituting:

(1) An act of domestic violence pursuant to NRS 33.018; or

(2) A violation of NRS 484.3775, 484.379 or 484.379778; or

(b) Any preliminary hearing for a gross misdemeanor or felony.

5. A person appointed as a master must take and subscribe to the official oath before acting as a master.

6. A master is entitled to receive a salary or a per diem salary set by the board of county commissioners. The annual sum expended for salaries of masters must not exceed the amount budgeted for those expenses by the board of county commissioners.

Sec. 2. (Deleted by amendment.)

Sec. 3. This act becomes effective on July 1, 2009.

Assemblyman Anderson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 313.

Bill read third time.

The following amendment was proposed by Assemblymen Anderson and Conklin:

Amendment No. 521.

SUMMARY— ~~[Prohibits excessive late fees in rental agreements.]~~ **Makes various changes relating to tenants of property.** (BDR 10-912)

AN ACT relating to property; limiting the amount of fees a landlord may charge for a late or partial rent payment; **revising provisions governing unlawful detainer; extending the period for complying with a notice to quit by certain tenants in certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a tenant is obligated to pay periodic rent to a landlord in exchange for use of the premises. A landlord must include, as part of the rental agreement, a provision which sets forth the charges, if any, which may be required for late or partial payment of rent. (NRS 118A.200)

This bill limits the amount of the late fee that may be charged by a landlord for late or partial payment of rent. **Section 1** of this bill provides: (1) for monthly or longer periodic terms, the late fee may not exceed ~~[2]~~ **3** percent of the periodic payment for payments made ~~[5 to 9]~~ **3 to 6** days late, and may not exceed an additional ~~[3]~~ **4** percent of the periodic payment if payment is made ~~[10]~~ **7** days or more late; (2) for **certain** weekly periodic terms, the late fee may not exceed ~~[2]~~ **7** percent of the weekly payment for payments made ~~[3 to 6 days late, and may not exceed an additional 3 percent of the weekly payment if payment is made 7 days or more]~~ late; and (3) that a late fee imposed by a landlord may only be imposed once for a late payment**.** ~~[and may not be deducted from a subsequent payment to place the subsequent payment in default.]~~

Existing law specifies when a tenant of real property or a mobile home is guilty of unlawful detainer, including when the tenant: (1) fails to pay his rent; (2) fails to comply with a written notice directing him to either pay the rent or surrender the property; and (3) remains on the property for at least 5 days after the notice is served upon him. (NRS 40.2512) Section 2 of this bill extends the 5-day period to 7 days if the premises are used as a residence.

A tenant of real property is also guilty of unlawful detainer under existing law if he: (1) fails to perform certain conditions of the lease; (2) fails to comply with a written notice directing him to perform the conditions or surrender the property; and (3) remains on the property for at least 5 days after the notice is served upon him. The tenant or subtenant may save the lease from forfeiture, however, by performing the conditions within 3 days after the notice is served. (NRS 40.2516) Section 3 of this bill extends from 5 to 7 days the period during which a tenant or subtenant of premises that are used as a residence may remain on the property before being guilty of unlawful detainer. Section 3 also

extends the period by which such a tenant or subtenant must perform the conditions to save the lease from forfeiture from 3 to 5 days.

Existing law provides that, under certain circumstances, a landlord may obtain an order from the court directing the sheriff to remove a tenant who has failed to pay rent within 24 hours after receiving the order. (NRS 40.253) Section 4 of this bill extends that period if the tenant is in possession of a dwelling, apartment or mobile home or if the rent is reserved by a period of 1 week or less so that the sheriff may not remove the tenant sooner than 2 days after the sheriff receives the order.

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

Section 1. Chapter 118A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A landlord shall not require, as part of a rental agreement, the tenant to pay a late fee for late or partial payment of rent in excess of the provisions of this section.

2. If the tenancy is from month to month and rent is due in monthly installments or if the tenancy is for a period greater than month to month as established by the rental agreement and the rent is:

(a) At least ~~[5]~~ 3 days overdue but less than ~~[10]~~ 7 days overdue, a landlord may charge a late fee not to exceed ~~[2]~~ 3 percent of the periodic rent.

(b) ~~[Ten]~~ Seven days or more overdue, a landlord may charge a late fee in addition to the late fee described in paragraph (a) not to exceed ~~[3]~~ 4 percent of the periodic rent.

3. If the tenancy is from week to week and the rent is ~~[:~~

~~(a) At least 3 days overdue but less than 7 days~~ ***overdue, a landlord may charge a late fee not to exceed ~~[2]~~ 7 percent of the weekly rent.***

~~[~~ ~~(b) Seven days or more overdue, a landlord may charge a late fee in addition to the late fee described in paragraph (a) not to exceed 3 percent of the weekly rent.]~~ As used in this subsection, "tenancy" does not include occupancy of any transient lodging for less than 30 consecutive calendar days.

4. If the rent is subsidized by the United States Department of Housing and Urban Development, the United States Department of Agriculture, a state agency, a public housing authority or a local government, any late fee charged by a landlord must be calculated in accordance with the provisions of this section on the tenant's share of the rent and the rent subsidy must not be included in the calculation.

5. If a late fee is imposed under this section, a landlord may only impose the late fee once for each late or partial payment. ~~[A landlord may not deduct a late fee from a subsequent rental payment and cause the subsequent rental payment to be in default.]~~

6. Any provision of a rental agreement prohibited by this section is void as contrary to public policy and the tenant may recover any actual damages incurred through the inclusion of the prohibited provision.

Sec. 2. **NRS 40.2512 is hereby amended to read as follows:**

40.2512 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he continues in possession, in person or by subtenant, after default in the payment of any rent and after a notice in writing, requiring in the alternative the payment of the rent or the surrender of the detained premises, remains uncomplied with for a period of 5 days, or in the case of ~~[a mobile home lot, 10]~~ ***premises used as a residence, 7*** days after service thereof. The notice may be served at any time after the rent becomes due.

Sec. 3. **NRS 40.2516 is hereby amended to read as follows:**

40.2516 A tenant of real property or a mobile home for a term less than life is guilty of an unlawful detainer when he continues in possession, in person or by subtenant, after a neglect or failure to perform any condition or covenant of the lease or agreement under which the property or mobile home is held, other than those mentioned in NRS 40.250 to 40.252, inclusive, and NRS 40.254, and after notice in writing, requiring in the alternative the performance of the condition or covenant or the surrender of the property, served upon him, and, if there is a subtenant in actual occupation of the premises, also upon the subtenant, remains uncomplied with for 5 days ***or, when the premises are used as a residence, for 7 days*** after the service thereof. Within 3 days after the service, ***or within 5 days after the service when the premises are used as a residence,*** the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person, interested in its continuance, may perform the condition or covenant and thereby save the lease from forfeiture; but if the covenants and conditions of the lease, violated by the lessee, cannot afterwards be performed, then no notice need be given.

Sec. 4. **NRS 40.253 is hereby amended to read as follows:**

40.253 1. Except as otherwise provided in subsection 10, in addition to the remedy provided in NRS 40.2512 and 40.290 to 40.420, inclusive, when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent reserved by the month or any shorter period is in default in payment of the rent, the landlord or his agent, unless otherwise agreed in writing, may serve or have served a notice in writing, requiring in the alternative the payment of the rent or the surrender of the premises:

(a) At or before noon of the fifth full day following the day of service; or

(b) If the landlord chooses not to proceed in the manner set forth in paragraph (a) and the rent is reserved by a period of 1 week or less and the tenancy has not continued for more than 45 days, at or before noon of the fourth full day following the day of service.

➥ As used in this subsection, "day of service" means the day the landlord or his agent personally delivers the notice to the tenant. If personal service was not so delivered, the "day of service" means the day the notice is delivered, after posting and mailing pursuant to subsection 2, to the sheriff or constable for service if the request for service is made before noon. If the request for service by the sheriff or constable is made after noon, the "day of service" shall be deemed to be the day next following the day that the request is made for service by the sheriff or constable.

2. A landlord or his agent who serves a notice to a tenant pursuant to paragraph (b) of subsection 1 shall attempt to deliver the notice in person in the manner set forth in paragraph (a) of subsection 1 of NRS 40.280. If the notice cannot be delivered in person, the landlord or his agent:

(a) Shall post a copy of the notice in a conspicuous place on the premises and mail the notice by overnight mail; and

(b) After the notice has been posted and mailed, may deliver the notice to the sheriff or constable for service in the manner set forth in subsection 1 of NRS 40.280. The sheriff or constable shall not accept the notice for service unless it is accompanied by written evidence, signed by the tenant when he took possession of the premises, that the landlord or his agent informed the tenant of the provisions of this section which set forth the lawful procedures for eviction from a short-term tenancy. Upon acceptance, the sheriff or constable shall serve the notice within 48 hours after the request for service was made by the landlord or his agent.

3. A notice served pursuant to subsection 1 or 2 must:

(a) Identify the court that has jurisdiction over the matter; and

(b) Advise the tenant of his right to contest the matter by filing, within the time specified in subsection 1 for the payment of the rent or surrender of the premises, an affidavit with the court that has jurisdiction over the matter stating that he has tendered payment or is not in default in the payment of the rent.

4. If the tenant files such an affidavit at or before the time stated in the notice, the landlord or his agent, after receipt of a file-stamped copy of the affidavit which was filed, shall not provide for the nonadmittance of the tenant to the premises by locking or otherwise.

5. Upon noncompliance with the notice:

(a) The landlord or his agent may apply by affidavit of complaint for eviction to the Justice Court of the township in which the dwelling, apartment, mobile home or commercial premises are located or to the district court of the county in which the dwelling, apartment, mobile home or commercial premises are located, whichever has jurisdiction over the matter. ~~[The]~~ ***If the tenant is in possession of commercial premises, the*** court may thereupon issue an order directing the sheriff or constable of the county to remove the tenant within 24 hours after receipt of the order. ***If the tenant is in possession of a dwelling, apartment or mobile home or if the rent is reserved by a period of 1 week or less, the court may thereupon issue an***

order directing the sheriff or constable of the county to remove the tenant not sooner than 2 days after receipt of the order. The affidavit must state or contain:

(1) The date the tenancy commenced.

(2) The amount of periodic rent reserved.

(3) The amounts of any cleaning, security or rent deposits paid in advance, in excess of the first month's rent, by the tenant.

(4) The date the rental payments became delinquent.

(5) The length of time the tenant has remained in possession without paying rent.

(6) The amount of rent claimed due and delinquent.

(7) A statement that the written notice was served on the tenant in accordance with NRS 40.280.

(8) A copy of the written notice served on the tenant.

(9) A copy of the signed written rental agreement, if any.

(b) Except when the tenant has timely filed the affidavit described in subsection 3 and a file-stamped copy of it has been received by the landlord or his agent, and except when the landlord is prohibited pursuant to NRS 118A.480, the landlord or his agent may, in a peaceable manner, provide for the nonadmittance of the tenant to the premises by locking or otherwise.

6. Upon the filing by the tenant of the affidavit permitted in subsection 3, regardless of the information contained in the affidavit, and the filing by the landlord of the affidavit permitted by subsection 5, the Justice Court or the district court shall hold a hearing, after service of notice of the hearing upon the parties, to determine the truthfulness and sufficiency of any affidavit or notice provided for in this section. If the court determines that ~~[there]~~ ***:***

(a) There is no legal defense as to the alleged unlawful detainer and the tenant is guilty of an unlawful detainer, the court may issue a summary order for removal of the tenant or an order providing for the nonadmittance of the tenant. ~~[If the court determines that there]~~

(b) There is a legal defense as to the alleged unlawful detainer, the court shall refuse to grant either party any relief ~~[,]~~ and, except as otherwise provided in this subsection, shall require that any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive.

➥ The issuance of a summary order for removal of the tenant does not preclude an action by the tenant for any damages or other relief to which he may be entitled. If the alleged unlawful detainer was based upon subsection 5 of NRS 40.2514, the refusal by the court to grant relief does not preclude the landlord thereafter from pursuing an action for unlawful detainer in accordance with NRS 40.251.

7. The tenant may, upon payment of the appropriate fees relating to the filing and service of a motion, file a motion with the court, on a form provided by the clerk of the court, to dispute the amount of the costs, if any, claimed by the landlord pursuant to NRS 118A.460 for the inventory,

moving and storage of personal property left on the premises. The motion must be filed within 20 days after the summary order for removal of the tenant or the abandonment of the premises by the tenant, or within 20 days after:

(a) The tenant has vacated or been removed from the premises; and

(b) A copy of those charges has been requested by or provided to the tenant,

➥ whichever is later.

8. Upon the filing of a motion pursuant to subsection 7, the court shall schedule a hearing on the motion. The hearing must be held within 10 days after the filing of the motion. The court shall affix the date of the hearing to the motion and order a copy served upon the landlord by the sheriff, constable or other process server. At the hearing, the court may:

(a) Determine the costs, if any, claimed by the landlord pursuant to NRS 118A.460, and any accumulating daily costs; and

(b) Order the release of the tenant's property upon the payment of the charges determined to be due or if no charges are determined to be due.

9. A landlord shall not refuse to accept rent from a tenant that is submitted after the landlord or his agent has served or had served a notice pursuant to subsection 1 if the refusal is based on the fact that the tenant has not paid collection fees, attorney's fees or other costs other than rent, a reasonable charge for late payments of rent or dishonored checks, or a security. As used in this subsection, "security" has the meaning ascribed to it in NRS 118A.240.

10. This section does not apply to the tenant of a mobile home lot in a mobile home park or to the tenant of a recreational vehicle lot in an area of a mobile home park in this State other than an area designated as a recreational vehicle lot pursuant to the provisions of subsection 6 of NRS 40.215.

Sec. 5. **The provisions of section 1 of this act apply only to a rental agreement entered into on or after July 1, 2009.**

~~[Sec. 2.]~~ ***Sec. 6.*** This act becomes effective on July 1, 2009.

Assemblyman Anderson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 508.

Bill read third time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 531.

AN ACT relating to housing; prohibiting the Housing Division of the Department of Business and Industry from adopting regulations that restrict or defer more than a certain percentage of the payment of profit and overhead to developers of certain projects under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits the Housing Division of the Department of Business and Industry from financing any low-income residential housing unless the Administrator of the Division makes certain findings. (NRS 319.260) **Section 1** of this bill provides that if the Division adopts regulations establishing a program for the financing of the lease, purchase or development of low-income multifamily housing, the regulations may establish the maximum amount of pro forma profit and overhead for a developer of a project, but the regulations must not restrict or require the deferral of more than ~~[50]~~ **60** percent of the payment of profits and overhead to a developer of a project that is: (1) constructed, developed, financed or insured in whole or in part through any program established by the United States Department of Housing and Urban Development; and (2) secured by a performance bond. **Section 2** of this bill deletes a provision which requires that any remaining balance of a certain appropriation from the State General Fund to the Housing Division must be reverted to the State General Fund on or before September 18, 2009.

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

Section 1. Chapter 319 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Division adopts regulations which establish a program for the financing of projects, the regulations must not include any provision which restricts or requires the deferral of more than ~~[50]~~ 60 percent of the payment of profits and overhead to a developer of a project that is:

(a) Constructed, developed, financed or insured in whole or in part through any program established by the United States Department of Housing and Urban Development; and

(b) Secured by a performance bond,

➥ except that such regulations may establish the maximum amount of pro forma profit and overhead for a developer of a project as a percentage of the appraised value of the project.

2. As used in this section, "project" means a housing facility for residential use which consists of two or more dwelling units for occupancy by eligible tenants on a rental basis. The term includes property which is to be leased, purchased or developed for sites for multifamily housing and upon which the Division takes a security interest and records a regulatory agreement, whether the Division issues bonds, a mortgage loan or a letter of credit for the lease, purchase or development of the multifamily housing.

Sec. 2. Section 3 of chapter 348, Statutes of Nevada 2007, at page 1657, is hereby amended to read as follows:

Sec. 3. 1. There is hereby appropriated from the State General Fund to the Housing Division of the Department of Business and Industry the sum of $1,000,000 to provide grants to encourage the creation of employer-assisted housing programs.

2. The Housing Division shall adopt regulations to govern the provision of grants pursuant to subsection 1, which must include, without limitation, criteria for determining eligibility for such programs.

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

~~4.]~~ As used in this section, "employer-assisted housing program" means a program for the provision of down-payment assistance, closing-cost assistance, reduced-interest mortgages, mortgage guarantees, rental subsidies or individual development account savings plans, or any combination thereof, to assist employees in securing affordable housing in this State.

Sec. 3. 1. This section and section 2 of this act become effective upon passage and approval.

2. Section 1 of this act becomes effective on October 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Assembly Bill No. 251.

Bill read third time.

The following amendment was proposed by Assemblyman Horne:

Amendment No. 520.

AN ACT relating to common-interest communities; revising the procedures for voting for a member of the executive board of an association under certain circumstances; requiring that the regulations governing the issuance of certificates for community managers must contain certain provisions relating to persons who formerly engaged in community management; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that the executive board of a unit-owners' association may nominate a person to serve on the executive board and that qualified members of the association may also have their names placed on the ballot along with the nominees for election to the executive board. Existing law also provides that the election of any member of the executive board of a unit-owners' association must be conducted by secret written ballot, unless the declaration of the association provides that voting rights may be exercised by delegates or representatives. (NRS 116.31034) **Section 1** of this bill provides that **, before notice is provided to each unit's owner of his eligibility to serve on the executive board, the executive board may**

determine that if the number of candidates nominated for membership on the executive board is less than or equal to the number of open positions on the executive board, **the appropriate officer of the association will send a notice to each unit's owner informing each unit's owner that a unit's owner who is qualified to be a member of the executive board may nominate himself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice. If the executive board decides to send such a notice and, at the closing of the period for nominations, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association must conduct an election for membership on the executive board. If, after any additional nominations, the number of candidates nominated for membership on the executive board continues to be less than or equal to the number of open positions on the executive board,** then ~~[the executive board may deem]~~ such nominees **shall be deemed to be** duly elected members of the executive board **.** ~~[without conducting a formal election by the members of the association.]~~

Existing law requires the Commission on Common-Interest Communities and Condominium Hotels to adopt regulations governing the issuance of certificates for community managers. (NRS 116A.410) **Section 2** of this bill provides that those regulations must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision by another community manager, regardless of the length of time that has passed since the person last acted as a community manager.

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

Section 1. NRS 116.31034 is hereby amended to read as follows:

116.31034 1. Except as otherwise provided in subsection 5 of NRS 116.212, not later than the termination of any period of declarant's control, the units' owners shall elect an executive board of at least three members, at least a majority of whom must be units' owners. Unless the governing documents provide otherwise, the remaining members of the executive board do not have to be units' owners. The executive board shall elect the officers of the association. The members of the executive board and the officers of the association shall take office upon election.

2. The term of office of a member of the executive board may not exceed 2 years, except for members who are appointed by the declarant. Unless the governing documents provide otherwise, there is no limitation on the number of terms that a person may serve as a member of the executive board.

3. The governing documents of the association must provide for terms of office that are staggered in such a manner that, to the extent possible, an

equal number of members of the executive board are elected at each election. The provisions of this subsection do not apply to:

(a) Members of the executive board who are appointed by the declarant; and

(b) Members of the executive board who serve a term of 1 year or less.

4. Not less than 30 days before the preparation of a ballot for the election of members of the executive board, the secretary or other officer specified in the bylaws of the association shall cause notice to be given to each unit's owner of his eligibility to serve as a member of the executive board. Each unit's owner who is qualified to serve as a member of the executive board may have his name placed on the ballot along with the names of the nominees selected by the members of the executive board or a nominating committee established by the association.

5. Before the secretary or other officer specified in the bylaws of the association causes notice to be given to each unit's owner of his eligibility to serve as a member of the executive board pursuant to ~~[this]~~ subsection ~~[,]~~ 4, the executive board may determine that if, at the closing of the prescribed period for nominations for membership on the executive board, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board at the election, then ~~[,]~~ the secretary or other officer specified in the bylaws of the association will cause notice to be given to each unit's owner informing each unit's owner that:

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section ~~[,]~~;

~~(b) The candidates so]~~ and the nominated candidates shall be deemed to be duly elected to the executive board ~~[not later than 30 days after the date of the closing of the prescribed period for nominations; and~~

~~(c) The units' owners will receive notification that the candidates so nominated have been elected to the executive board.~~

~~5.~~) unless:

(1) A unit's owner who is qualified to serve on the executive board nominates himself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection; and

(2) The number of units' owners who submit such a nomination causes the number of candidates nominated for membership on the executive board to be greater than the number of members to be elected to the executive board.

(b) Each unit's owner who is qualified to serve as a member of the executive board may nominate himself for membership on the executive board by submitting a nomination to the executive board within 30 days after the notice provided by this subsection.

6. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive

board described in subsection 5, the number of candidates nominated for membership on the executive board is equal to or less than the number of members to be elected to the executive board, then:

(a) The association will not prepare or mail any ballots to units' owners pursuant to this section;

(b) The nominated candidates shall be deemed to be duly elected to the executive board not later than 30 days after the date of the closing of the period for nominations described in subsection 5; and

(c) The association shall send to each unit's owner notification that the candidates nominated have been elected to the executive board.

7. If the notice described in subsection 5 is given and if, at the closing of the prescribed period for nominations for membership on the executive board described in subsection 5, the number of candidates nominated for membership on the executive board is greater than the number of members to be elected to the executive board, then the association shall:

(a) Prepare and mail ballots to the units' owners pursuant to this section; and

(b) Conduct an election for membership on the executive board pursuant to this section.

8. Each person ~~[whose name is placed on the ballot]~~ ***who is nominated*** as a candidate for a member of the executive board ***pursuant to subsection 4 or 5*** must:

(a) Make a good faith effort to disclose any financial, business, professional or personal relationship or interest that would result or would appear to a reasonable person to result in a potential conflict of interest for the candidate if the candidate were to be elected to serve as a member of the executive board; and

(b) Disclose whether the candidate is a member in good standing. For the purposes of this paragraph, a candidate shall not be deemed to be in "good standing" if the candidate has any unpaid and past due assessments or construction penalties that are required to be paid to the association.

➥ The candidate must make all disclosures required pursuant to this subsection in writing to the association with his candidacy information. The association shall distribute the disclosures to each member of the association with the ballot ***or, in the event ballots are not prepared and mailed pursuant to subsection*** ~~[4,]~~ ***6,*** in the manner established ***for distribution of ballots*** in the bylaws of the association.

~~[6.]~~ ***9.*** Unless a person is appointed by the declarant:

(a) A person may not be a member of the executive board or an officer of the association if the person, his spouse or his parent or child, by blood, marriage or adoption, performs the duties of a community manager for that association.

(b) A person may not be a member of the executive board of a master association or an officer of that master association if the person, his spouse or

his parent or child, by blood, marriage or adoption, performs the duties of a community manager for:

(1) That master association; or

(2) Any association that is subject to the governing documents of that master association.

~~[7.]~~ ***10.*** An officer, employee, agent or director of a corporate owner of a unit, a trustee or designated beneficiary of a trust that owns a unit, a partner of a partnership that owns a unit, a member or manager of a limited-liability company that owns a unit, and a fiduciary of an estate that owns a unit may be an officer of the association or a member of the executive board. In all events where the person serving or offering to serve as an officer of the association or a member of the executive board is not the record owner, he shall file proof in the records of the association that:

(a) He is associated with the corporate owner, trust, partnership, limited-liability company or estate as required by this subsection; and

(b) Identifies the unit or units owned by the corporate owner, trust, partnership, limited-liability company or estate.

~~[8.]~~ ***11.*** ~~[The]~~ ***Except as otherwise provided in subsection*** ~~*[4,]*~~ ***6, the*** election of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the election of any member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) A quorum is not required for the election of any member of the executive board.

(d) Only the secret written ballots that are returned to the association may be counted to determine the outcome of the election.

(e) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(f) The incumbent members of the executive board and each person whose name is placed on the ballot as a candidate for a member of the executive board may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

~~[9.]~~ ***12.*** Each member of the executive board shall, within 90 days after his appointment or election, certify in writing to the association, on a form prescribed by the Administrator, that he has read and understands the governing documents of the association and the provisions of this chapter to the best of his ability. The Administrator may require the association to submit a copy of the certification of each member of the executive board of that association at the time the association registers with the Ombudsman pursuant to NRS 116.31158.

Sec. 2. NRS 116A.410 is hereby amended to read as follows:

116A.410 1. The Commission shall by regulation provide for the issuance by the Division of certificates. The regulations:

(a) Must establish the qualifications for the issuance of such a certificate, including, without limitation, the education and experience required to obtain such a certificate.

(b) May require applicants to pass an examination in order to obtain a certificate. If the regulations require such an examination, the Commission shall by regulation establish fees to pay the costs of the examination, including any costs which are necessary for the administration of the examination.

(c) ***Must establish a procedure for a person who was previously issued a certificate and who no longer holds a certificate to reapply for and obtain a new certificate without undergoing any period of supervision under another community manager, regardless of the length of time that has passed since the person last acted as a community manager.***

(d) May require an investigation of an applicant's background. If the regulations require such an investigation, the Commission shall by regulation establish fees to pay the costs of the investigation.

~~[(d)]~~ ***(e)*** Must establish the grounds for initiating disciplinary action against a person to whom a certificate has been issued, including, without limitation, the grounds for placing conditions, limitations or restrictions on a certificate and for the suspension or revocation of a certificate.

~~[(e)]~~ ***(f)*** Must establish rules of practice and procedure for conducting disciplinary hearings.

2. The Division may collect a fee for the issuance of a certificate in an amount not to exceed the administrative costs of issuing the certificate.

Sec. 3. This act becomes effective on July 1, 2009.

Assemblyman Horne moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Assembly Bills Nos. 6, 40, 74, 81, 84, 95, 130, 135, 140, 144, 147, 159, 176, 179, 192, 208, 224, 256, 281, 284, 290, 307, 325, 350, 361, 387, 397, 448, 470, 474, 478, and 492.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Assembly Bills Nos. 6, 40, 74, 81, 84, 95, 130, 135, 140, 144, 147, 159, 176, 179, 192, 208, 224, 256, 281, 284, 290, 307, 325, 350, 361, 364, 387, 397, 448, 470, 474, 478, and 492 be declared emergency measures under the *Constitution* and immediately placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 493.

Bill read third time.

Roll call on Assembly Bill No. 493:

YEAS—40.

NAYS—Koivisto.

EXCUSED—Parnell.

Assembly Bill No. 493 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 6.

Bill read third time.

Remarks by Assemblyman Hardy.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 6:

YEAS—40.

NAYS—Anderson.

EXCUSED—Parnell.

Assembly Bill No. 6 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 40.

Bill read third time.

Roll call on Assembly Bill No. 40:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 40 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 74.
Bill read third time.
Remarks by Assemblyman Bobzien.
Roll call on Assembly Bill No. 74:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.
Assembly Bill No. 74 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Horne moved that upon return from the printer, Assembly Bill No. 81 be taken from the General File and rereferred to the Committee on Ways and Means.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 84.
Bill read third time.
Roll call on Assembly Bill No. 84:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.
Assembly Bill No. 84 having received a two-thirds majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 95.
Bill read third time.
Roll call on Assembly Bill No. 95:
YEAS—30.
NAYS—Carpenter, Christensen, Cobb, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart—11.
EXCUSED—Parnell.
Assembly Bill No. 95 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 130.
Bill read third time.
Remarks by Assemblywoman Kirkpatrick.
Roll call on Assembly Bill No. 130:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.

Assembly Bill No. 130 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 135.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Assembly Bill No. 135:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 135 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 140.

Bill read third time.

Roll call on Assembly Bill No. 140:

YEAS—30.

NAYS—Christensen, Cobb, Gansert, Goedhart, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—11.

EXCUSED—Parnell.

Assembly Bill No. 140 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 144.

Bill read third time.

Remarks by Assemblyman Hogan.

Roll call on Assembly Bill No. 144:

YEAS—40.

NAYS—None.

NOT VOTING—Arberry.

EXCUSED—Parnell.

Assembly Bill No. 144 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 147.

Bill read third time.

Remarks by Assemblymen Spiegel, Settelmeyer, Smith, and Kirkpatrick.

Assemblymen Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYWOMAN SPIEGEL:

Thank you, Madam Speaker. Assembly Bill 147 grants a 5 percent preference to local businesses and businesses owned by women, minorities, or service-disabled veterans when bidding on local government purchasing contracts over $25,000. A local business is defined as one that has employed at least one person in Nevada for two years. For businesses owned by women, minorities, or service-disabled veterans to be eligible for the preference, the business must have employed at least one person in Nevada for one year. When awarding certain local

government purchasing contracts that are not adapted to competitive bidding, the local government must give consideration to the number of local employees and other relevant local contacts of the person or business seeking the contract. If the local government uses a points system or similar scoring rubric to make decisions on awarding such contracts, it must ensure that the factors demonstrating that the local government contracts of the bidder account for not less than 5 percent of the points. The bid requires annual reporting by the local government to the Legislature on a number of contracts awarded to local businesses or businesses owned by women, minorities, or service-disabled veterans and becomes effective on July 1, 2009.

This is important legislation because AB 147 is a miniature stimulus package that uses our state's resources to strengthen local economy statewide, support local businesses, diversify our economy, decrease unemployment, and support state economic development goals. Some of our business sectors have unemployment in excess of 50 percent and too many of our tax dollars flow out of Nevada, never to return. Our small businesses and their employees need the help that AB 147 provides, which is why this bill is supported by chambers of commerce throughout the state. I urge your support for AB 147.

ASSEMBLYMAN SETTELMEYER:

Thank you, Madam Speaker. I rise in opposition to AB 147. The bill discusses a concept of the 5 percent preference, but the question is where do you get that type of money in these economic times? To me, that either means we are going to do 5 percent less jobs or we are going to have to raise taxes to get the additional 5 percent. In that respect, we are generally talking about products such as paper and things of that nature that are not manufactured within the state. These are just other individuals being middle men on these types of projects. So that means that the state would have less money, or rather government would have less money, to give to other worthy projects. I urge you to vote no on this bill.

ASSEMBLYWOMAN SMITH:

Thank you, Madam Speaker. I rise in support of AB 147. Just a couple of days ago, we were in a budget hearing and I asked one of our state agencies if we were seeing more competition from out of state on these bids. I have been worried about this since the economy is so tough, and especially with the stimulus money coming—if we would be giving some of that up to out-of-state employers and consequently their employees who would be taking that money back home. The answer was that they had just opened a contract for a $120,000 bid, and there was a contractor from Arizona bidding on that—a small bid like that attracted someone from out of state. I think it is obvious that if we keep the work here, those paychecks go in the pockets of our state residents and that money cycles back through our businesses and our economy. I urge my colleagues to support this bill.

ASSEMBLYWOMAN KIRKPATRICK:

Thank you, Madam Speaker. First, I would like to clarify that within the bill there is a provision that if it is not in the public's best interest, local government absolutely should not be required to spend more than what it costs to do the job. I will tell you, we have seen many contracts that we are losing for less than thousands of dollars. For example, I pay a utility bill within Clark County; we send that utility bill to Arizona for data processing with my tax dollars. It is great to have other states doing so well. I will tell you, 37 states across the nation are looking at this very exact issue because we need to keep our tax dollars in our state at a time when we need it. So I would ask that you support this bill.

Roll call on Assembly Bill No. 147:

YEAS—33.

NAYS—Christensen, Cobb, Gansert, Goedhart, Gustavson, McArthur, Settelmeyer, Woodbury—8.

EXCUSED—Parnell.

Assembly Bill No. 147 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 159.
Bill read third time.
Remarks by Assemblymen Pierce and Settelmeyer.
Roll call on Assembly Bill No. 159:
YEAS—34.
NAYS—Christensen, Cobb, Gansert, Gustavson, Hambrick, McArthur, Settelmeyer—7.
EXCUSED—Parnell.
Assembly Bill No. 159 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 176.
Bill read third time.
Remarks by Assemblywoman McClain.
Roll call on Assembly Bill No. 176:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.
Assembly Bill No. 176 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 179.
Bill read third time.
Roll call on Assembly Bill No. 179:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.
Assembly Bill No. 179 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 192.
Bill read third time.
Remarks by Assemblywoman Kirkpatrick.
Roll call on Assembly Bill No. 192:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.
Assembly Bill No. 192 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Assembly Bill No. 208.
Bill read third time.
Remarks by Assemblyman Claborn.

Potential conflict of interest declared by Assemblyman Gustavson.

Roll call on Assembly Bill No. 208:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 208 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 224.

Bill read third time.

Roll call on Assembly Bill No. 224:

YEAS—27.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

EXCUSED—Parnell.

Assembly Bill No. 224 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblywoman Kirkpatrick moved that the Assembly recess subject to the call of the Chair.

Motion carried.

Assembly in recess at 6:07 p.m.

ASSEMBLY IN SESSION

At 6:08 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 256 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 281.

Bill read third time.

Roll call on Assembly Bill No. 281:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 281 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 284.

Bill read third time.

Remarks by Assemblyman Christensen.

Roll call on Assembly Bill No. 284:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 284 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 290.

Bill read third time.

Remarks by Assemblymen Spiegel, Goedhart, Atkinson and Madam Speaker.

ASSEMBLYWOMAN SPIEGEL:

Assembly Bill 290 provides that in a contract for the sale of a used vehicle by a used vehicle dealer, the implied warranty expires at midnight on the fifteenth calendar day after delivery of the used vehicle or upon the used vehicle being driven 500 miles, whichever occurs first. Additionally, a used vehicle dealer is prohibited from excluding, modifying, negating, or limiting the implied warranty of merchantability or limiting any right or remedy of the purchaser for failure of the used vehicle to conform to the implied warranty of merchantability. The bill also provides certain remedies to the purchaser if the used vehicle does not conform to the implied warranty of merchantability. The measure exempts used vehicles still under a manufacturer's warranty. A person may waive the implied warranty of merchantability for a particular defect under certain circumstances. Also, the bill provides various protections for a person who purchases a used vehicle sold by a used vehicle dealer, regardless of the mileage of the used vehicle. Finally, the bill repeals certain provisions governing express written warranties provided by used vehicle dealers and the imposition of administrative fines for violations of a used vehicle dealer. This bill is effective upon passage and approval for the purposes of adopting regulations and on October 1, 2009, for all other purposes.

ASSEMBLYMAN GOEDHART:

Thank you, Madam Speaker. I know that in the past if we wanted or needed some old ranch vehicles, we would sometimes go to dealerships, on recent trade-ins, where they would have what's called "back row" cars. We would go with our mechanic and look over the vehicles, whether they were trucks or pickup trucks or cars. We would buy those at a reduced price under the conditions of "as is, where is." In other words, there were no warranties expressed or implied. Would this legislation preclude people from being able to do that?

ASSEMBLYMAN ATKINSON:

Thank you, Madam Speaker. I do rise in support of Assembly Bill No. 290. This bill is a good consumer bill. This is not about the individual who has the amount of money to go get a hobby car or who can go buy a car that they know will need work and can fix it up. This bill is about the consumer who has a little bit of money, who has gone out to a dealership and bought a car with the little money they have, $3,000 or $4,000, because they do not have enough money to go finance a more expensive car. That consumer should know that car is in operable condition. This bill, again, is not about someone who can afford to fix up a car. This is for someone who drives off the lot and believes the car they just purchased will be able to run. In some instances, we are finding that cars people are driving off the lot are, one or two days later, no longer operating. Now, they are out of their $3,000, $4,000, or $5,000 and have a car that is not operating. So that is who this bill is for. And yes, that does fall under the "as is," category because even if you are selling "as is" someone should be able to rely on that car for at least 15 days. Thank you, Madam Speaker.

ASSEMBLYWOMAN SPIEGEL:

Just in answer to my colleague to the north's question, you can buy something from the back of the lot, but the dealer just needs to tell you what is wrong with it and says, "You are going to get a fabulous price on this because there are problems with the transmission, there are problems with the radiator, there are problems with this." They disclose it, you buy it, you get the great price, and then those items are exempt because it has been disclosed.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

More specifically, that is contained in section 7 of the bill, page 4, which states that a purchaser may specifically waive the implied warranty if it is disclosed and that there is actually a form to allow the back of the row purchasers, still.

ASSEMBLYMAN GOEDHART:

Thank you, Madam Speaker. I guess, in that case, for those implied warranties to be waived, from what I read in that section, the dealer would have to explicitly state each and every flaw in the car, whether it was a leaking radiator or a hose. In that case, it would still preclude the dealers from being able to sell those. What they would end up doing is taking them through an auction. A lot of auctions are available to people, but there are less financing options with those auctions. Also, people who are trading in old cars with 150,000 miles on them to the dealerships are going to find out that the dealerships won't take those cars in on trade. They will force all of those sells to be on craigslist or through curbstoners, who jump titles. I applaud the sponsor of the bill and what her intent was, but I think there are other ways to go about it, and I think this would be akin to shooting a fly with an elephant gun. Thank you.

Roll call on Assembly Bill No. 290:

YEAS—32.

NAYS—Christensen, Cobb, Gansert, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Stewart—9.

EXCUSED—Parnell.

Assembly Bill No. 290 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 307.

Bill read third time.

Remarks by Assemblymen Aizley and Carpenter.

Roll call on Assembly Bill No. 307:

YEAS—31.

NAYS—Anderson, Buckley, Carpenter, Claborn, Goicoechea, Gustavson, Hardy, Kirkpatrick, Smith, Stewart—10.

EXCUSED—Parnell.

Assembly Bill No. 307 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 325.

Bill read third time.

Remarks by Assemblyman Stewart.

Roll call on Assembly Bill No. 325:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 325 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 350.

Bill read third time.

Remarks by Assemblyman Munford.

Potential conflict of interest declared by Assemblywoman Spiegel.

Roll call on Assembly Bill No. 350:

YEAS—39.

NAYS—Atkinson, Spiegel—2.

EXCUSED—Parnell.

Assembly Bill No. 350 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 361.

Bill read third time.

Remarks by Assemblyman McArthur.

Potential conflict of interest declared by Assemblywoman Spiegel.

Roll call on Assembly Bill No. 361:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 361 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 364.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Assembly Bill No. 364:

YEAS—34.

NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer—7.

EXCUSED—Parnell.

Assembly Bill No. 364 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 387.

Bill read third time.

Remarks by Assemblyman Conklin.

Potential conflict of interest declared by Assemblyman Denis.

Assemblyman Conklin requested that his remarks be entered in the Journal.

Thank you, Madam Speaker. I just want to get some remarks on the record, particularly pertaining to Chapter 704B, which is amended in this bill. What I want to be on the record is simply this: the amendment pertaining to 704B is designed to answer a very long disputed question between the energy providers and those who have gotten off the grid. It simply says

when you have been allowed to get off of the grid by the PUC, the standard of renewable energy which exists at that time will be your standard as long as you keep that order in existence and you do not change or increase your energy usage. If you increase your energy usage once you are off the grid, then you have to apply for new energy and meet the new standard, which will be higher. Thank you, Madam Speaker, I urge passage.

Roll call on Assembly Bill No. 387:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.

Assembly Bill No. 387 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 397 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Conklin moved that Assembly Bill No. 448 be taken from the General File and rereferred to the Committee on Ways and Means.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 470.

Bill read third time.

Roll call on Assembly Bill No. 470:
YEAS—26.
NAYS—Arberry, Carpenter, Christensen, Cobb, Gansert, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Kirkpatrick, McArthur, Settelmeyer, Stewart, Woodbury—15.
EXCUSED—Parnell.

Assembly Bill No. 470 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 474.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Roll call on Assembly Bill No. 474:
YEAS—41.
NAYS—None.
EXCUSED—Parnell.

Assembly Bill No. 474 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 478.

Bill read third time.

Remarks by Assemblyman Christensen.

Roll call on Assembly Bill No. 478:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 478 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 492

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

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

Motion carried.

Assembly in recess at 6:40 p.m.

ASSEMBLY IN SESSION

At 6:42 p.m.

Madam Speaker presiding.

Quorum present.

Roll call on Assembly Bill No. 492:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 492 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that all rules be suspended and the reprinting of Assembly Bills Nos. 10, 63, 251, 313, and 508 be dispensed with.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 10.

Bill read third time.

Remarks by Assemblywoman Leslie.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Assembly Bill No. 10:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 10 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 63.

Bill read third time.

Remarks by Assemblyman Anderson.

Conflict of interest declared by Assemblywoman Dondero Loop.

Roll call on Assembly Bill No. 63:

YEAS—40.

NAYS—None.

NOT VOTING—Dondero Loop.

EXCUSED—Parnell.

Assembly Bill No. 63 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 313.

Bill read third time.

Remarks by Assemblymen Pierce, Gansert, and Conklin.

Roll call on Assembly Bill No. 313:

YEAS—23.

NAYS—Arberry, Atkinson, Christensen, Claborn, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Horne, McArthur, Settelmeyer, Stewart, Woodbury—17.

NOT VOTING—Carpenter.

EXCUSED—Parnell.

Assembly Bill No. 313 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 508.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Assembly Bill No. 508:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 508 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 251.

Bill read third time.

Remarks by Assemblyman Manendo.

Potential conflict of interest declared by Assemblywoman Spiegel.

Roll call on Assembly Bill No. 251:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 251 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

SECOND READING AND AMENDMENT

Assembly Bill No. 8.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 396.

SUMMARY— ~~[Establishes]~~ **Makes various changes governing the investigations of the criminal history of certain employees and licensees and creates** the Statewide Central Registry for the Collection of Information Concerning the Abuse, Neglect, Exploitation or Isolation of Older Persons. (BDR 38-98)

AN ACT relating to ~~[older persons;]~~ **public safety; revising certain provisions governing the investigations of the criminal history of certain employees and licensees;** establishing the Statewide Central Registry for the Collection of Information Concerning the Abuse, Neglect, Exploitation or Isolation of Older Persons; requiring the Aging Services Division of the Department of Health and Human Services to maintain the Central Registry; providing for the release of certain information from the Central Registry to an employer or prospective employer under certain circumstances; providing immunity from civil and criminal liability under certain circumstances for persons who release information from the Central Registry; **making it a crime to submit fingerprints to an employer or licensing board under false pretenses;** providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the Office of Disability Services of the Department of Health and Human Services, rather than the Central Repository for Nevada Records of Criminal History, to review the record of criminal history and the report obtained from the Federal Bureau of Investigation to make employment-related decisions concerning employees of certain organizations and agencies which provide personal care services. (NRS 426.335) Sections 17, 18 and 19 of this bill similarly amend provisions regarding the review of such information by the Health Division of the Department of Health and Human Services for the purpose of making decisions relating to the licensure of persons who operate certain medical facilities and employment-related decisions concerning prospective and current employees of certain medical facilities. (NRS 449.176, 449.179, 449.185) Section 15 of this bill makes it a category D felony to submit fingerprints to an employer or licensing board under any false pretense when the fingerprints will be used to conduct an investigation of the criminal history of the person.

Certain persons are required to report cases of suspected abuse, neglect, exploitation or isolation of older persons. (NRS 200.5093) **Sections 2-14** of this bill establish the Statewide Central Registry for the Collection of Information Concerning the Abuse, Neglect, Exploitation or Isolation of Older Persons and require the Aging Services Division of the Department of Health and Human Services to maintain the Central Registry. **Section 10** provides for the release of certain information from the Central Registry to an employer or prospective employer upon written authorization from the person who is the subject of the background investigation by the employer or prospective employer. **Section 13** provides immunity from civil and criminal liability for persons who lawfully release information from the Central Registry. **Section 14** makes it a misdemeanor to release information contained in the Central Registry to an unauthorized person.

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

Section 1. **NRS 426.335 is hereby amended to read as follows:**

426.335 1. Except as otherwise provided in subsection 2, within 10 days after hiring an employee or entering into a contract with an independent contractor, the holder of a certificate to operate an intermediary service organization shall:

(a) Obtain a written statement from the employee or independent contractor stating whether he has been convicted of any crime listed in subsection 1 of NRS 426.341;

(b) Obtain an oral and written confirmation of the information contained in the written statement obtained pursuant to paragraph (a);

(c) Obtain from the employee or independent contractor two sets of fingerprints and a written authorization to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(d) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (c).

2. The holder of a certificate to operate an intermediary service organization is not required to obtain the information described in subsection 1 from an employee or independent contractor who provides proof that ~~[an investigation]~~ ***a search*** of his criminal history has been conducted by the Central Repository for Nevada Records of Criminal History within the immediately preceding 6 months and the ~~[investigation]~~ ***search*** did not indicate that the employee or independent contractor had been convicted of any crime set forth in subsection 1 of NRS 426.341.

3. The holder of a certificate to operate an intermediary service organization shall ensure that the criminal history of each employee or independent contractor who works at or for the intermediary service organization is investigated at least once every 5 years. The holder of the certificate shall:

(a) ~~[If the intermediary service organization does not have the fingerprints of the employee or independent contractor on file, obtain]~~ ***Obtain*** two sets of fingerprints from the employee or independent contractor;

(b) Obtain written authorization from the employee or independent contractor to forward the fingerprints ~~[on file or]~~ obtained pursuant to paragraph (a) to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(c) Submit the fingerprints to the Central Repository for Nevada Records of Criminal History.

4. Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall ***search the record of criminal history of the employee or independent contractor and forward the record of criminal history to the Office together with the report obtained from the Federal Bureau of Investigation pursuant to subsection 3. The Office shall review the record and report and*** determine whether the employee or independent contractor has been convicted of a crime listed in subsection 1 of NRS 426.341 and immediately inform ~~[the Office and]~~ the holder of a certificate to operate the intermediary service organization for which the person works whether the employee or independent contractor has been convicted of such a crime.

5. The Central Repository for Nevada Records of Criminal History may impose a fee upon an intermediary service organization that submits fingerprints pursuant to this section for the reasonable cost of ~~[the investigation.]~~ ***taking any action described in this section.*** The intermediary service organization may recover from the employee or independent contractor not more than one-half of the fee imposed by the Central Repository. If the intermediary service organization requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments.

6. As used in this section, "record of criminal history" has the meaning ascribed to it in NRS 179A.070.

Sec. 1.3. **NRS 426.339 is hereby amended to read as follows:**

426.339 1. Upon receiving information ~~[from]~~ ***provided to the Office by*** the Central Repository for Nevada Records of Criminal History pursuant to NRS 426.335, or evidence from any other source, that an employee or independent contractor of an intermediary service organization has been convicted of a crime listed in subsection 1 of NRS 426.341, the holder of a certificate to operate the intermediary service organization shall terminate the employment or contract of that person after allowing him time to correct the information pursuant to subsection 2.

2. If an employee or independent contractor believes that the information provided by the Central Repository is incorrect, he may immediately inform the intermediary service organization. An intermediary service organization

that is so informed shall give the employee or independent contractor a reasonable amount of time of not less than 30 days to correct the information ~~[received from]~~ ***provided by*** the Central Repository before terminating the employment or contract of the person pursuant to subsection 1.

3. An intermediary service organization that has complied with NRS 426.335 may not be held civilly or criminally liable based solely upon the ground that the intermediary service organization allowed an employee or independent contractor to work:

(a) Before it received the information concerning the employee or independent contractor ~~[from]~~ ***provided by*** the Central Repository;

(b) During any period required pursuant to subsection 2 to allow the employee or independent contractor to correct that information;

(c) Based on the information ~~[received from]~~ ***provided by*** the Central Repository, if the information ~~[received from]~~ ***provided by*** the Central Repository was inaccurate; or

(d) Any combination thereof.

➥ An intermediary service organization may be held liable for any other conduct determined to be negligent or unlawful.

~~[Section 1.]~~ ***Sec. 1.7.*** Chapter 427A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to*** ~~[9,]~~ ***9.5, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Abuse" has the meaning ascribed to it in NRS 200.5092.***

Sec. 4. ***"Central Registry" means the Statewide Central Registry for the Collection of Information Concerning the Abuse, Neglect, Exploitation or Isolation of Older Persons established by section 10 of this act.***

Sec. 5. ***"Exploitation" has the meaning ascribed to it in NRS 200.5092.***

Sec. 6. ***"Isolation" has the meaning ascribed to it in NRS 200.5092.***

Sec. 7. ***"Neglect" has the meaning ascribed to it in NRS 200.5092.***

Sec. 8. ***"Older person" has the meaning ascribed to it in NRS 200.5092.***

Sec. 9. ***"Protective Services" has the meaning ascribed to it in NRS 200.5092.***

Sec. 9.5. "Reasonable cause to believe" has the meaning ascribed to it in NRS 200.50925.

Sec. 10. ***1. There is hereby established a Statewide Central Registry for the Collection of Information Concerning the Abuse, Neglect, Exploitation or Isolation of Older Persons. The Division shall maintain the Central Registry.***

2. The Central Registry must contain:

(a) The information concerning each report submitted and investigation conducted pursuant to NRS 200.5093 if the investigation of the report results in [the belief] reasonable cause to believe that an older person [is] has been abused, neglected, exploited or isolated [;] or the investigation substantiates that abuse, neglect, exploitation or isolation of an older person has occurred;

(b) Statistical information on the protective services provided in this State; and

(c) Any other information which the Administrator determines to be in furtherance of this chapter.

3. The Division may release information contained in the Central Registry to an employer or prospective employer:

(a) If the person who is the subject of a background investigation by the employer or prospective employer provides written authorization for the release of the information; and

(b) Either:

(1) The employer or prospective employer is required by law to conduct the background investigation of the person for employment purposes; or

(2) The person who is the subject of the background investigation could, in the course of his employment, have regular and substantial contact with older persons , [or regular and substantial contact with children,]

➥ but only to the extent necessary to inform the employer or prospective employer whether the person who is the subject of the background investigation is believed to have abused, neglected, exploited or isolated an older person. The Division shall not release any information concerning the identity of a victim or of a person who made a report.

4. Except as otherwise provided in this section or by other specific statute, the information contained in the Central Registry may be accessed only by an employee of the Division or an employee of an office for protective services established by a county of this State.

Sec. 10.5. 1. After the Division makes a determination to include information in the Central Registry pursuant to subsection 2 of section 10 of this act, the Division shall provide written notification to the person about whom the information pertains concerning his right to appeal the determination and shall provide information on the process for such an appeal.

2. The Division shall adopt regulations to establish the process for such an appeal and shall adopt such other regulations as necessary to carry out the provisions of sections 2 to 14, inclusive, of this act.

Sec. 11. ***1. Except as otherwise provided in subsection 2, the Division shall maintain a record of:***

(a) The name and identifying data, dates and circumstances of each person requesting or receiving information from the Central Registry; and

(b) Any other information which the Administrator determines might be helpful in furthering the purposes of this chapter.

2. The Division is not required to maintain a record of information concerning requests for information from or the receipt of information by employees of the Division or an office for protective services established by a county of this State.

Sec. 12. ***1. Information contained in the Central Registry must not be released unless:***

(a) The right of the applicant to the information is confirmed;

(b) The information concerns a report submitted pursuant to NRS 200.5093 which resulted in ~~[the belief]~~ reasonable cause to believe that an older person ~~[had]~~ has been abused, neglected, exploited or isolated ~~[;]~~ or substantiation that abuse, neglect, exploitation or isolation of an older person has occurred;

(c) The released information discloses the disposition of the case; and

(d) If the information is being provided pursuant to subsection 3 of section 10 of this act, the person who is the subject of the background investigation provides written authorization for the release of the information.

2. The information contained in the Central Registry concerning cases in which a report results in the belief that an older person has been abused, neglected, exploited or isolated must be deleted from the Central Registry not later than 10 years after the date on which the information is entered into the Central Registry.

Sec. 13. ***If a person who is authorized to release data and information pursuant to sections 2 to 14, inclusive, of this act releases the data and information in good faith and in accordance with sections 2 to 14, inclusive, of this act, the person is immune from civil and criminal liability for any act or omission related to such release.***

Sec. 14. ***Any person who willfully releases data or information contained in the Central Registry to an unauthorized person in violation of sections 2 to 14, inclusive, of this act is guilty of a misdemeanor.***

Sec. 15. **Chapter 179A of NRS is hereby amended by adding thereto a new section to read as follows:**

A person who submits fingerprints to his employer or any licensing board under any false pretense to be used to search the records of criminal history of the person is guilty of a category D felony and shall be punished as provided in NRS 193.130.

~~[Sec. 15.]~~ ***Sec. 16.*** NRS 200.5095 is hereby amended to read as follows:

200.5095 1. Reports made pursuant to NRS 200.5093, 200.50935 and 200.5094, and records and investigations relating to those reports, are confidential.

2. A person, law enforcement agency or public or private agency, institution or facility who willfully releases data or information concerning

the reports and investigation of the abuse, neglect, exploitation or isolation of older persons or vulnerable persons, except:

(a) Pursuant to a criminal prosecution;

(b) Pursuant to NRS 200.50982; ~~[or]~~

(c) ***Pursuant to the provisions of sections 2 to 14, inclusive, of this act; or***

(d) To persons or agencies enumerated in subsection 3,

➥ is guilty of a misdemeanor.

3. Except as otherwise provided in subsection 2 and NRS 200.50982, data or information concerning the reports and investigations of the abuse, neglect, exploitation or isolation of an older person or a vulnerable person is available only to:

(a) A physician who is providing care to an older person or a vulnerable person who may have been abused, neglected, exploited or isolated;

(b) An agency responsible for or authorized to undertake the care, treatment and supervision of the older person or vulnerable person;

(c) A district attorney or other law enforcement official who requires the information in connection with an investigation of the abuse, neglect, exploitation or isolation of the older person or vulnerable person;

(d) A court which has determined, in camera, that public disclosure of such information is necessary for the determination of an issue before it;

(e) A person engaged in bona fide research, but the identity of the subjects of the report must remain confidential;

(f) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(g) Any comparable authorized person or agency in another jurisdiction;

(h) A legal guardian of the older person or vulnerable person, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the legal guardian of the older person or vulnerable person is not the person suspected of such abuse, neglect, exploitation or isolation;

(i) If the older person or vulnerable person is deceased, the executor or administrator of his estate, if the identity of the person who was responsible for reporting the alleged abuse, neglect, exploitation or isolation of the older person or vulnerable person to the public agency is protected, and the executor

or administrator is not the person suspected of such abuse, neglect, exploitation or isolation; or

(j) The older person or vulnerable person named in the report as allegedly being abused, neglected, exploited or isolated, if that person is not legally incompetent.

4. If the person who is reported to have abused, neglected, exploited or isolated an older person or a vulnerable person is the holder of a license or certificate issued pursuant to chapters 449, 630 to 641B, inclusive, or 654 of

NRS, information contained in the report must be submitted to the board that issued the license.

Sec. 17. **NRS 449.176 is hereby amended to read as follows:**

449.176 1. Each applicant for a license to operate a facility for intermediate care, facility for skilled nursing or residential facility for groups shall submit to the Central Repository for Nevada Records of Criminal History two complete sets of fingerprints for submission to the Federal Bureau of Investigation for its report.

2. The Central Repository for Nevada Records of Criminal History shall ***search the record of criminal history of the applicant and forward the record to the Health Division together with the report obtained from the Federal Bureau of Investigation pursuant to subsection 1. The Health Division shall review the record and report and*** determine whether the applicant has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188 and immediately inform the administrator of the facility ~~[, if any, and the Health Division]~~ of whether the applicant has been convicted of such a crime.

3. As used in this section, "record of criminal history" has the meaning ascribed to it in NRS 179A.070.

Sec. 18. **NRS 449.179 is hereby amended to read as follows:**

449.179 1. Except as otherwise provided in subsection 2, within 10 days after hiring an employee or entering into a contract with an independent contractor, the administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups shall:

(a) Obtain a written statement from the employee or independent contractor stating whether he has been convicted of any crime listed in NRS 449.188;

(b) Obtain an oral and written confirmation of the information contained in the written statement obtained pursuant to paragraph (a);

(c) Obtain from the employee or independent contractor two sets of fingerprints and a written authorization to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(d) Submit to the Central Repository for Nevada Records of Criminal History the fingerprints obtained pursuant to paragraph (c).

2. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups is not required to obtain the information described in subsection 1 from an employee or independent contractor who provides proof that ~~[an investigation]~~ ***a search*** of his criminal history has been conducted by the Central Repository for Nevada Records of Criminal History within the immediately preceding 6 months and the ~~[investigation]~~

search did not indicate that the employee or independent contractor had been convicted of any crime set forth in NRS 449.188.

3. The administrator of, or the person licensed to operate, an agency to provide personal care services in the home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups shall ensure that the criminal history of each employee or independent contractor who works at the agency or facility is investigated at least once every 5 years. The administrator or person shall:

(a) ~~[If the agency or facility does not have the fingerprints of the employee or independent contractor on file, obtain]~~ ***Obtain*** two sets of fingerprints from the employee or independent contractor;

(b) Obtain written authorization from the employee or independent contractor to forward the fingerprints ~~[on file or]~~ obtained pursuant to paragraph (a) to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(c) Submit the fingerprints to the Central Repository for Nevada Records of Criminal History.

4. Upon receiving fingerprints submitted pursuant to this section, the Central Repository for Nevada Records of Criminal History shall ***search the record of criminal history of the employee or independent contractor and forward the record to the Health Division together with the report obtained from the Federal Bureau of Investigation pursuant to subsection 3. The Health Division shall review the record and report and*** determine whether the employee or independent contractor has been convicted of a crime listed in NRS 449.188 and immediately inform ~~[the Health Division and]~~ the administrator of, or the person licensed to operate, the agency or facility at which the person works whether the employee or independent contractor has been convicted of such a crime.

5. The Central Repository for Nevada Records of Criminal History may impose a fee upon an agency or a facility that submits fingerprints pursuant to this section for the reasonable cost of ~~[the investigation.]~~ ***taking any action described in this section.*** The agency or facility may recover from the employee or independent contractor not more than one-half of the fee imposed by the Central Repository. If the agency or facility requires the employee or independent contractor to pay for any part of the fee imposed by the Central Repository, it shall allow the employee or independent contractor to pay the amount through periodic payments.

6. As used in this section, "record of criminal history" has the meaning ascribed to it in NRS 179A.070.

Sec. 19. **NRS 449.185 is hereby amended to read as follows:**

449.185 1. Upon receiving information ~~[from]~~ ***provided by*** the Central Repository for Nevada Records of Criminal History pursuant to NRS 449.179, or evidence from any other source, that an employee or independent contractor of an agency to provide personal care services in the

home, an agency to provide nursing in the home, a facility for intermediate care, a facility for skilled nursing or a residential facility for groups has been convicted of a crime listed in paragraph (a) of subsection 1 of NRS 449.188, the administrator of, or the person licensed to operate, the agency or facility shall terminate the employment or contract of that person after allowing him time to correct the information as required pursuant to subsection 2.

2. If an employee or independent contractor believes that the information provided by the Central Repository is incorrect, he may immediately inform the agency or facility. An agency or facility that is so informed shall give the employee or independent contractor a reasonable amount of time of not less than 30 days to correct the information ~~[received from]~~ ***provided by*** the Central Repository before terminating the employment or contract of the person pursuant to subsection 1.

3. An agency or facility that has complied with NRS 449.179 may not be held civilly or criminally liable based solely upon the ground that the agency or facility allowed an employee or independent contractor to work:

(a) Before it received the information concerning the employee or independent contractor ~~[from]~~ ***provided by*** the Central Repository;

(b) During any period required pursuant to subsection 2 to allow the employee or independent contractor to correct that information;

(c) Based on the information ~~[received]~~ ***provided by*** from the Central Repository, if the information ~~[received]~~ ***provided by*** from the Central Repository was inaccurate; or

(d) Any combination thereof.

➥ An agency or facility may be held liable for any other conduct determined to be negligent or unlawful.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 22.

Bill read second time.

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

Amendment No. 428.

AN ACT relating to trade practices; providing that certain persons ~~[who do not register with the Consumer Affairs Division of the Department of Business and Industry are engaged in a deceptive trade practice; authorizing the Commissioner of Consumer Affairs to impose a fine on persons who engage in such a deceptive trade practice;]~~ **may bring a civil action for various deceptive trade practices or other violations; providing that various actions related to certain persons with an inability to reasonably protect their rights or interests constitute a deceptive trade practice; allowing equitable relief for certain actions related to consumer fraud;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines activities that constitute deceptive trade practices and provides for the imposition of civil and criminal penalties against persons who engage in deceptive trade practices. (Chapter 598 of NRS)

Section ~~[2]~~ 1 of this bill provides that certain persons ~~[who do not register with the Consumer Affairs Division of the Department of Business and Industry are engaged in a deceptive trade practice.]~~ **may bring a civil action for damages for deceptive trade practices and violations of chapter 598 of NRS or any regulation adopted pursuant to that chapter.**

Section ~~[4]~~ 5.5 of this bill ~~[authorizes the Commissioner of Consumer Affairs to impose a fine on a person who engages in such a deceptive trade practice.]~~ **defines as a deceptive trade practice knowingly taking advantage of certain persons with an inability to reasonably protect their rights or interests.**

Section 14 of this bill allows equitable relief for various actions involving consumer fraud.

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

Section 1. Chapter 598 of NRS is hereby amended by adding thereto ~~[the provisions set forth as sections 2, 3 and 4 of this act.]~~ **a new section to read as follows:**

1. Except as otherwise provided in subsection 2, in addition to any other remedy or penalty, if a person suffers damage as a result of a deceptive trade practice or a violation of this chapter or any regulation adopted pursuant to this chapter, that person may commence a civil action against any other person who engaged in the act or violation to recover statutory damages of up to $5,000 per act or violation.

2. A person may not be held liable in any civil action brought pursuant to this section if the person proves, by a preponderance of evidence, that the act or violation:

(a) Was not intentional;

(b) Was technical in nature; and

(c) Resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

3. For the purposes of this section, a bona fide error includes, without limitation, clerical errors, calculation errors, computer malfunction and programming errors and printing errors, except that an error of legal judgment with respect to a person's obligations under this chapter is not a bona fide error.

Sec. 2. ~~***[A person engages in a "deceptive trade practice" if, in the course of his business or occupation, he is required to be registered with the Division pursuant to any provision of this chapter or NRS 599B.080 and he fails to register with the Division.]***~~ **(Deleted by amendment.)**

Sec. 3. ~~*[“Division” means the Consumer Affairs Division of the Department of Business and Industry.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~*[1. In addition to any other remedy or penalty, if a person engages in a deceptive trade practice, as defined in section 2 of this act, the Commissioner may impose a fine of:*~~

~~*(a) For the first violation, $500;*~~

~~*(b) For the second violation, $1,500; and*~~

~~*(c) For each subsequent violation, $3,000.*~~

~~*2. All money collected from fines imposed pursuant to this section must be deposited in the State General Fund.]*~~ **(Deleted by amendment.)**

Sec. 5. NRS 598.0903 is hereby amended to read as follows:

598.0903 As used in NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 598.0905 to 598.0947, inclusive, ~~*[and sections 2 and 3 of this act]*~~ have the meanings ascribed to them in those sections.

Sec. 5.5. **NRS 598.092 is hereby amended to read as follows:**

598.092 A person engages in a “deceptive trade practice” when in the course of his business or occupation he:

1. Knowingly fails to identify goods for sale or lease as being damaged by water.

2. Solicits by telephone or door to door as a lessor or seller, unless the lessor or seller identifies himself, whom he represents and the purpose of his call within 30 seconds after beginning the conversation.

3. Knowingly states that services, replacement parts or repairs are needed when no such services, replacement parts or repairs are actually needed.

4. Fails to make delivery of goods or services for sale or lease within a reasonable time or to make a refund for the goods or services, if he allows refunds.

5. Advertises or offers an opportunity for investment and:

(a) Represents that the investment is guaranteed, secured or protected in a manner which he knows or has reason to know is false or misleading;

(b) Represents that the investment will earn a rate of return which he knows or has reason to know is false or misleading;

(c) Makes any untrue statement of a material fact or omits to state a material fact which is necessary to make another statement, considering the circumstances under which it is made, not misleading;

(d) Fails to maintain adequate records so that an investor may determine how his money is invested;

(e) Fails to provide information to an investor after a reasonable request for information concerning his investment;

(f) Fails to comply with any law or regulation for the marketing of securities or other investments; or

(g) Represents that he is licensed by an agency of the State to sell or offer for sale investments or services for investments if he is not so licensed.

6. Charges a fee for advice with respect to investment of money and fails to disclose:

(a) That he is selling or offering to lease goods or services and, if he is, their identity; or

(b) That he is licensed by an agency of any state or of the United States to sell or to offer for sale investments or services for investments, or holds any other license related to the service he is providing.

7. Notifies any person, by any means, as a part of an advertising plan or scheme, that he has won a prize and that as a condition of receiving the prize he must purchase or lease goods or services.

8. Knowingly misrepresents the legal rights, obligations or remedies of a party to a transaction.

9. Fails, in a consumer transaction that is rescinded, cancelled or otherwise terminated in accordance with the terms of an agreement, advertisement, representation or provision of law, to promptly restore to a person entitled to it a deposit, down payment or other payment or, in the case of property traded in but not available, the agreed value of the property, or fails to cancel within a specified time or an otherwise reasonable time an acquired security interest. This subsection does not apply to a person who is holding a deposit, down payment or other payment on behalf of another if all parties to the transaction have not agreed to the release of the deposit, down payment or other payment.

10. Fails to inform customers, if he does not allow refunds or exchanges, that he does not allow refunds or exchanges by:

(a) Printing a statement on the face of the lease or sales receipt;

(b) Printing a statement on the face of the price tag; or

(c) Posting in an open and conspicuous place a sign at least 8 by 10 inches in size with boldface letters,

➥ specifying that no refunds or exchanges are allowed.

11. Knowingly takes advantage of another person's inability to reasonably protect his own rights or interests in a consumer transaction when such an inability is due to illiteracy or to a mental or physical infirmity which manifests itself as an incapability to understand the language or terms of any agreement or as another similar condition.

Sec. 6. ~~**[NRS 598.0953 is hereby amended to read as follows:**~~

~~598.0953 1. Evidence that a person has engaged in a deceptive trade practice is prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.~~

~~2. The deceptive trade practices listed in NRS 598.0915 to 598.0925, inclusive, *and section 2 of this act* are in addition to and do not limit the types of unfair trade practices actionable at common law or defined as such in other statutes of this State.~~**]** **(Deleted by amendment.)**

Sec. 7. NRS 598.0955 is hereby amended to read as follows:

598.0955 1. The provisions of NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act*** do not apply to:

(a) Conduct in compliance with the orders or rules of, or a statute administered by, a federal, state or local governmental agency.

(b) Publishers, including outdoor advertising media, advertising agencies, broadcasters or printers engaged in the dissemination of information or reproduction of printed or pictorial matter who publish, broadcast or reproduce material without knowledge of its deceptive character.

(c) Actions or appeals pending on July 1, 1973.

2. The provisions of NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act*** do not apply to the use by a person of any service mark, trademark, certification mark, collective mark, trade name or other trade identification which was used and not abandoned prior to July 1, 1973, if the use was in good faith and is otherwise lawful except for the provisions of NRS 598.0903 to 598.0999, inclusive ~~.~~ ***, and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act.***

Sec. 8. NRS 598.096 is hereby amended to read as follows:

598.096 When the Commissioner, Director or Attorney General has cause to believe that any person has engaged or is engaging in any deceptive trade practice, he may:

1. Request the person to file a statement or report in writing under oath or otherwise, on such forms as may be prescribed by the Commissioner, Director or Attorney General, as to all facts and circumstances concerning the sale or advertisement of property by the person, and such other data and information as the Commissioner, Director or Attorney General may deem necessary.

2. Examine under oath any person in connection with the sale or advertisement of any property.

3. Examine any property or sample thereof, record, book, document, account or paper as he may deem necessary.

4. Make true copies, at the expense of the Consumer Affairs Division of the Department of Business and Industry, ~~*[Division,]*~~ of any record, book, document, account or paper examined pursuant to subsection 3, which copies may be offered into evidence in lieu of the originals thereof in actions brought pursuant to NRS 598.097 and 598.0979.

5. Pursuant to an order of any district court, impound any sample of property which is material to the deceptive trade practice and retain the property in his possession until completion of all proceedings as provided in NRS 598.0903 to 598.0999, inclusive ~~.~~ ***, and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act.*** An order may not be issued pursuant to this subsection unless:

(a) The Commissioner, Director or Attorney General ~~,~~ and the court give the accused full opportunity to be heard; and

(b) The Commissioner, Director or Attorney General proves by clear and convincing evidence that the business activities of the accused will not be impaired thereby.

Sec. 9. ~~[NRS 598.0966 is hereby amended to read as follows:~~

~~598.0966 1. There is hereby created a revolving account for the [Consumer Affairs Division of the Department of Business and Industry] *Division* in the sum of $7,500, which must be used for the payment of expenses related to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice.~~

~~2. The Commissioner shall deposit the money in the revolving account in a bank or credit union qualified to receive deposits of public money as provided by law, and the deposit must be secured by a depository bond satisfactory to the State Board of Examiners.~~

~~3. The Commissioner or his designee may:~~

~~(a) Sign all checks drawn upon the revolving account; and~~

~~(b) Make withdrawals of cash from the revolving account.~~

~~4. Payments made from the revolving account must be promptly reimbursed from the legislative appropriation, if any, to the [Consumer Affairs] Division for the expenses related to conducting an undercover investigation of a person who is allegedly engaging in a deceptive trade practice. The claim for reimbursement must be processed and paid as other claims against the State are paid.~~

~~5. The Commissioner shall:~~

~~(a) Approve any disbursement from the revolving account; and~~

~~(b) Maintain records of any such disbursement.]~~ **(Deleted by amendment.)**

Sec. 10. NRS 598.0971 is hereby amended to read as follows:

598.0971 1. If, after an investigation, the Commissioner has reasonable cause to believe that any person has been engaged or is engaging in any deceptive trade practice in violation of NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act,*** the Commissioner may issue an order directed to the person to show cause why the Commissioner should not order the person to cease and desist from engaging in the practice. The order must contain a statement of the charges and a notice of a hearing to be held thereon. The order must be served upon the person directly or by certified or registered mail, return receipt requested.

2. If, after conducting a hearing pursuant to the provisions of subsection 1, the Commissioner determines that the person has violated any of the provisions of NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act,*** or if the person fails to appear for the hearing after being properly served with the statement of charges and notice of hearing, the Commissioner may make a written report of his findings of fact concerning the violation and cause to be served a copy thereof upon the person and any intervener at the hearing. If the Commissioner determines in the report that such a violation has occurred, he may order the violator to:

(a) Cease and desist from engaging in the practice or other activity constituting the violation;

(b) Pay the costs of conducting the investigation, costs of conducting the hearing, costs of reporting services, fees for experts and other witnesses,

charges for the rental of a hearing room if such a room is not available to the Commissioner free of charge, charges for providing an independent hearing officer, if any, and charges incurred for any service of process, if the violator is adjudicated to have committed a violation of NRS 598.0903 to 598.0999, inclusive ~~[,]~~ ***, and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act;*** and

(c) Provide restitution for any money or property improperly received or obtained as a result of the violation.

➥ The order must be served upon the person directly or by certified or registered mail, return receipt requested. The order becomes effective upon service in the manner provided in this subsection.

3. Any person whose pecuniary interests are directly and immediately affected by an order issued pursuant to subsection 2 or who is aggrieved by the order may petition for judicial review in the manner provided in chapter 233B of NRS. Such a petition must be filed within 30 days after the service of the order. The order becomes final upon the filing of the petition.

4. If a person fails to comply with any provision of an order issued pursuant to subsection 2, the Commissioner may, through the Attorney General, at any time after 30 days after the service of the order, cause an action to be instituted in the district court of the county wherein the person resides or has his principal place of business requesting the court to enforce the provisions of the order or to provide any other appropriate injunctive relief.

5. If the court finds that:

(a) The violation complained of is a deceptive trade practice;

(b) The proceedings by the Commissioner concerning the written report and any order issued pursuant to subsection 2 are in the interest of the public; and

(c) The findings of the Commissioner are supported by the weight of the evidence,

➥ the court shall issue an order enforcing the provisions of the order of the Commissioner.

6. Except as otherwise provided in NRS 598.0974, an order issued pursuant to subsection 5 may include:

(a) A provision requiring the payment to the Commissioner of a penalty of not more than $5,000 for each act amounting to a failure to comply with the Commissioner's order; or

(b) Such injunctive or other equitable or extraordinary relief as is determined appropriate by the court.

7. Any aggrieved party may appeal from the final judgment, order or decree of the court in a like manner as provided for appeals in civil cases.

8. Upon the violation of any judgment, order or decree issued pursuant to subsection 5 or 6, the Commissioner, after a hearing thereon, may proceed in accordance with the provisions of NRS 598.0999.

Sec. 11. NRS 598.0975 is hereby amended to read as follows:

598.0975 1. Except as otherwise provided in subsection 3 and in subsection 1 of NRS 598.0999, all fees, civil penalties and any other money collected pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive **[.]** ***, and [sections 2, 3 and 4] section 1 of this act:***

(a) In an action brought by the Attorney General, Commissioner or Director, must be deposited in the State General Fund and may only be used to offset the costs of administering and enforcing the provisions of NRS 598.0903 to 598.0999, inclusive **[.]** ***, and [sections 2, 3 and 4] section 1 of this act.***

(b) In an action brought by the district attorney of a county, must be deposited with the county treasurer of that county and accounted for separately in the county general fund.

2. Money in the account created pursuant to paragraph (b) of subsection 1 must be used by the district attorney of the county for:

(a) The investigation and prosecution of deceptive trade practices against elderly persons or persons with disabilities; and

(b) Programs for the education of consumers which are directed toward elderly persons or persons with disabilities, law enforcement officers, members of the judicial system, persons who provide social services and the general public.

3. The provisions of this section do not apply to:

(a) Criminal fines imposed pursuant to NRS 598.0903 to 598.0999, inclusive **[,]** ***, and [sections 2, 3 and 4] section 1 of this act;*** or

(b) Restitution ordered pursuant to NRS 598.0903 to 598.0999, inclusive, ***and [sections 2, 3 and 4] section 1 of this act*** in an action brought by the Attorney General. Money collected for restitution ordered in such an action must be deposited by the Attorney General and credited to the appropriate account of the Consumer Affairs Division of the Department of Business and Industry *[Division]* or the Attorney General for distribution to the person for whom the restitution was ordered.

Sec. 12. NRS 598.0999 is hereby amended to read as follows:

598.0999 1. Except as otherwise provided in NRS 598.0974, a person who violates a court order or injunction issued pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, ***and [sections 2, 3 and 4] section 1 of this act,*** upon a complaint brought by the Commissioner, the Director, the district attorney of any county of this State or the Attorney General shall forfeit and pay to the State General Fund a civil penalty of not more than $10,000 for each violation. For the purpose of this section, the court issuing the order or injunction retains jurisdiction over the action or proceeding. Such civil penalties are in addition to any other penalty or remedy available for the enforcement of the provisions of NRS 598.0903 to 598.0999, inclusive **[.]** ***, and [sections 2, 3 and 4] section 1 of this act.***

2. Except as otherwise provided in NRS 598.0974, in any action brought pursuant to the provisions of NRS 598.0903 to 598.0999, inclusive, ***and [sections 2, 3 and 4] section 1 of this act,*** if the court finds that a person has

willfully engaged in a deceptive trade practice, the Commissioner, the Director, the district attorney of any county in this State or the Attorney General bringing the action may recover a civil penalty not to exceed $5,000 for each violation. The court in any such action may, in addition to any other relief or reimbursement, award reasonable attorney's fees and costs.

3. A natural person, firm, or any officer or managing agent of any corporation or association who knowingly and willfully engages in a deceptive trade practice:

(a) For the first offense, is guilty of a misdemeanor.

(b) For the second offense, is guilty of a gross misdemeanor.

(c) For the third and all subsequent offenses, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

➥ The court may require the natural person, firm, or officer or managing agent of the corporation or association to pay to the aggrieved party damages on all profits derived from the knowing and willful engagement in a deceptive trade practice and treble damages on all damages suffered by reason of the deceptive trade practice.

4. Any offense which occurred within 10 years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of subsection 3 when evidenced by a conviction, without regard to the sequence of the offenses and convictions.

5. If a person violates any provision of NRS 598.0903 to 598.0999, inclusive, ***and*** ~~***[sections 2, 3 and 4]***~~ ***section 1 of this act,*** 598.100 to 598.2801, inclusive, 598.305 to 598.395, inclusive, 598.405 to 598.525, inclusive, 598.741 to 598.787, inclusive, or 598.840 to 598.966, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Commissioner or the district attorney of any county may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

6. If a person violates any provision of NRS 228.500 to 228.640, inclusive, fails to comply with a judgment or order of any court in this State concerning a violation of such a provision, or fails to comply with an assurance of discontinuance or other agreement concerning an alleged violation of such a provision, the Attorney General may bring an action in the name of the State of Nevada seeking:

(a) The suspension of the person's privilege to conduct business within this State; or

(b) If the defendant is a corporation, dissolution of the corporation.

➥ The court may grant or deny the relief sought or may order other appropriate relief.

Sec. 13. 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, ***and*** ~~***[sections 2, 3 and 4]***~~ ***section 1 of this act,*** 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 or other lender 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 or other lender 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 NRS 41.740.

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. 14. NRS 41.600 is hereby amended to read as follows:

41.600 1. An action may be brought by any person who is a victim of consumer fraud.

2. As used in this section, "consumer fraud" means:

(a) An unlawful act as defined in NRS 119.330;

(b) An unlawful act as defined in NRS 205.2747;

(c) An act prohibited by NRS 482.36655 to 482.36667, inclusive;

(d) An act prohibited by NRS 482.351; or

(e) A deceptive trade practice as defined in NRS 598.0915 to 598.0925, inclusive . ~~*[, and section 2 of this act.]*~~

3. If the claimant is the prevailing party, the court shall award him:

(a) Any damages that he has sustained; ~~**[and]**~~

(b) ***Any equitable relief that the court deems appropriate; and***

(c) His costs in the action and reasonable attorney's fees.

4. Any action brought pursuant to this section is not an action upon any contract underlying the original transaction.

Sec. 15. NRS 482.554 is hereby amended to read as follows:

482.554 1. The Department may impose an administrative fine of not more than $10,000 against any person who engages in a deceptive trade practice. The Department shall afford to any person so fined an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

2. For the purposes of this section, a person shall be deemed to be engaged in a "deceptive trade practice" if, in the course of his business or occupation, he:

(a) Enters into a contract for the sale of a vehicle on credit with a customer, exercises a valid option to cancel the vehicle sale and then, after the customer returns the vehicle with no damage other than reasonable wear and tear, the seller:

(1) Fails to return any down payment or other consideration in full, including, ***without limitation,*** returning a vehicle accepted in trade;

(2) Knowingly makes a false representation to the customer that the customer must sign another contract for the sale of the vehicle on less favorable terms; or

(3) Fails to use the disclosure as required in subsection 3.

(b) Uses a contract for the sale of the vehicle or a security agreement that materially differs from the form prescribed by law.

(c) Engages in any deceptive trade practice, as defined in NRS 598.0915 to 598.0925, inclusive, ~~*[and section 2 of this act,]*~~ that involves the purchase and sale or lease of a motor vehicle.

(d) Engages in any other acts prescribed by the Department by regulation as a deceptive trade practice.

3. If a seller of a vehicle exercises a valid option to cancel the sale of a vehicle to a customer, the seller must provide a disclosure, and the customer must sign that disclosure, before the seller and customer may enter into a new agreement for the sale of the same vehicle on different terms, or for the sale of a different vehicle. The Department shall prescribe the form of the disclosure by regulation.

4. All administrative fines collected by the Department pursuant to this section must be deposited with the State Treasurer to the credit of the State Highway Fund.

5. Except as otherwise provided in this subsection, the administrative remedy provided in this section is not exclusive and is intended to supplement existing law. The Department may not impose a fine pursuant to this section against any person who engages in a deceptive trade practice if a fine has previously been imposed against that person pursuant to NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act*** for the same act. The provisions of this section do not deprive a

person injured by a deceptive trade practice from resorting to any other legal remedy.

Sec. 16. NRS 489.401 is hereby amended to read as follows:

489.401 The following grounds, among others, constitute grounds for disciplinary action pursuant to NRS 489.381:

1. The intentional publication, circulation or display of any advertising which constitutes a deceptive trade practice as that term is defined in NRS 598.0915 to 598.0925, inclusive . ~~*[, and section 2 of this act.]*~~

2. Failure to include in any advertising the name of the licensed dealer, general serviceman or specialty serviceman, or the name under which he is doing business.

3. Making any substantial misrepresentation or false promise which is likely to influence, persuade or induce, or continually failing to fulfill promises to sell, breaching agreements or contracts or making false promises by any means.

4. Failure to disclose all terms and conditions of a sale, purchase or lease or offer to sell, purchase or lease a manufactured home, mobile home or commercial coach.

5. Failure to disclose to a person with whom the licensed dealer is dealing with regard to the sale, purchase or lease of a manufactured home any material facts, structural defects or other material information which the licensed dealer knew, or which by the exercise of reasonable care and diligence should have known, concerning the manufactured home or concerning the sale, purchase or lease of the manufactured home.

6. Failure to comply with the provisions of NRS 489.595.

7. Representing to any lender, guaranteeing agency or other interested party, orally or through the preparation of false documents:

(a) An amount in excess of the actual sales price;

(b) A false amount as the down payment, earnest money deposit or other valuable consideration;

(c) Terms differing from those actually agreed upon; or

(d) False information on a credit application.

8. Inducing an applicant to falsify his credit application.

9. Failure to obtain from the holder of any lien or security interest in a manufactured home, mobile home or commercial coach, within 10 days before the closure of a sale of the manufactured home, mobile home or commercial coach, a written acknowledgment that the holder of the lien or security interest has received written notification of the sale.

Sec. 17. NRS 645B.189 is hereby amended to read as follows:

645B.189 1. If, in carrying on his business, a mortgage broker uses an advertisement that is designed, intended or reasonably likely to solicit money from private investors, the mortgage broker shall include in each such advertisement a statement of disclosure in substantially the following form:

Money invested through a mortgage broker is not guaranteed to earn any interest or return and is not insured.

2. A mortgage broker shall include in each advertisement that the mortgage broker uses in carrying on his business any statements of disclosure required pursuant to the regulations adopted by the Commissioner or required pursuant to an order of the Commissioner entered in accordance with subsections 7 and 8 of NRS 645B.185.

3. Each mortgage broker who has received his initial license within the past 12 months shall submit any proposed advertisement that the mortgage broker intends to use in carrying on his business to the Commissioner for approval.

4. In addition to the requirements set forth in this chapter, each advertisement that a mortgage broker uses in carrying on his business must comply with the requirements of:

(a) NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act*** concerning deceptive trade practices; and

(b) Any applicable federal statute or regulation concerning deceptive advertising and the advertising of interest rates.

5. If a mortgage broker violates any provision of NRS 598.0903 to 598.0999, inclusive, ***and*** ~~*[sections 2, 3 and 4]*~~ ***section 1 of this act*** concerning deceptive trade practices or any federal statute or regulation concerning deceptive advertising or the advertising of interest rates, in addition to any sanction or penalty imposed by state or federal law upon the mortgage broker for the violation, the Commissioner may take any disciplinary action set forth in subsection 2 of NRS 645B.670 against the mortgage broker.

6. The Commissioner may adopt any regulations that are necessary to carry out the provisions of this section.

Sec. 18. **This act becomes effective on July 1, 2009.**

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 6:57 p.m.

ASSEMBLY IN SESSION

At 7:18 p.m.

Madam Speaker presiding.

Quorum present.

Assembly Bill No. 24.

Bill read second time.

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

Amendment No. 429.

AN ACT relating to industrial insurance; revising provisions relating to the duty of an insurer to accept or deny a claim for compensation; revising provisions relating to the selection of a physician or chiropractor by an injured employee; revising provisions relating to the denial of compensation due to discharge from employment for misconduct; revising provisions relating to the ~~[reopening]~~ **closure** of a claim; repealing provisions requiring the reduction of compensation by the amount of federal disability insurance benefits received by an injured employee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, an insurer is required to accept or deny a claim for compensation within 30 days after the insurer has been notified of an industrial accident. (NRS 616C.065) **Section 2** of this bill provides that if an insurer is ordered by the Administrator of the Division of Industrial Relations of the Department of Business and Industry, a hearing or appeals officer, a district court or the Supreme Court of Nevada to make a new determination relating to a claim for compensation, such a determination must be made within 30 days after the order.

Existing law provides that an injured employee may choose an alternative treating physician or chiropractor after making his initial choice if the alternative choice is made within 90 days after the injury. (NRS 616C.090) **Section 3** of this bill clarifies existing law by providing that an injured employee may make the alternative choice without the insurer's approval if the alternative choice is made within 90 days after the injury. **Section 3** also provides that an injured employee may make a change in the treating physician or chiropractor at any time, subject to the insurer's approval. **Section 3 further requires an insurer to provide to an injured employee whose request for a change in the treating physician or chiropractor has been denied the specific reason for the denial.**

Section 4 of this bill provides that the affidavit or declaration of a qualified laboratory director, chemist or any other person meeting certain qualifications may be used to prove the existence of alcohol or controlled substances in an employee's system in denying, reducing or suspending the payment of compensation for an injury. (NRS 616C.230)

Section 5 of this bill revises existing provisions governing the denial of compensation to injured employees who have been discharged for misconduct by ~~[adding further facts that must be proven by the insurer before he may deny compensation and by]~~ providing that only compensation for temporary total disability may be denied. (NRS 616C.232)

Section 5.5 of this bill revises existing law by requiring an insurer to notify an injured employee whose claim will be closed whether an evaluation for a permanent partial disability has been scheduled or, if such an evaluation has not been scheduled, that the reason is because the insurer determined there is no possibility of a permanent impairment of any kind. (NRS 616C.235)

~~[Section 6 of this bill revises existing law to require, as one of the criteria that must be met for an insurer to reopen a claim to modify a compensation arrangement more than 1 year after the date on which the claim was closed, a showing that a substantial contributing cause, rather than the primary cause, of the change in circumstances which warrants a modification to the compensation arrangement is the injury for which the claim was originally made.~~

~~(NRS 616C.390)~~

~~Section 7 of this bill removes a showing that the insurer committed certain violations from the criteria that must be met to require an insurer to reopen a claim for permanent partial disability. (NRS 616C.392)]~~

Section 9 of this bill repeals the provisions requiring a reduction in the compensation received by an employee for temporary disability, permanent partial disability or permanent total disability by the amount of federal disability insurance benefits received by the employee. (NRS 616C.430)

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

Section 1. NRS 616C.050 is hereby amended to read as follows:

616C.050 1. An insurer shall provide to each claimant:

(a) Upon written request, one copy of any medical information concerning his injury or illness.

(b) A statement which contains information concerning the claimant's right to:

(1) Receive the information and forms necessary to file a claim;

(2) Select a treating physician or chiropractor and an alternative treating physician or chiropractor in accordance with the provisions of NRS 616C.090;

(3) Request the appointment of the Nevada Attorney for Injured Workers to represent him before the appeals officer;

(4) File a complaint with the Administrator;

(5) When applicable, receive compensation for:

(I) Permanent total disability;

(II) Temporary total disability;

(III) Permanent partial disability;

(IV) Temporary partial disability;

(V) All medical costs related to his injury or disease; or

(VI) The hours he is absent from the place of employment to receive medical treatment pursuant to NRS 616C.477;

(6) Receive services for rehabilitation if his injury prevents him from returning to gainful employment;

(7) Review by a hearing officer of any determination or rejection of a claim by the insurer within the time specified by statute; and

(8) Judicial review of any final decision within the time specified by statute.

2. The insurer's statement must include a copy of the form designed by the Administrator pursuant to subsection ~~[7]~~ ***8*** of NRS 616C.090 that notifies injured employees of their right to select an alternative treating physician or chiropractor. The Administrator shall adopt regulations for the manner of compliance by an insurer with the other provisions of subsection 1.

Sec. 2. NRS 616C.065 is hereby amended to read as follows:

616C.065 1. Except as otherwise provided in NRS 616C.136, within 30 days after the insurer has been notified of an industrial accident, every insurer shall:

(a) Accept a claim for compensation, notify the claimant or the person acting on behalf of the claimant that the claim has been accepted and commence payment of the claim; or

(b) Deny the claim and notify the claimant or the person acting on behalf of the claimant and the Administrator that the claim has been denied.

2. ***If an insurer is ordered by the Administrator, a hearing officer, an appeals officer, a district court or the Supreme Court of Nevada to make a new determination, including, without limitation, a new determination regarding the acceptance or denial of a claim for compensation, the insurer shall make the new determination within 30 days after the date on which the insurer has been ordered to do so.***

3. Payments made by an insurer pursuant to this section are not an admission of liability for the claim or any portion of the claim.

~~[3.]~~ ***4.*** Except as otherwise provided in this subsection, if an insurer unreasonably delays or refuses to pay the claim within 30 days after the insurer has been notified of an industrial accident, the insurer shall pay upon order of the Administrator an additional amount equal to three times the amount specified in the order as refused or unreasonably delayed. This payment is for the benefit of the claimant and must be paid to him with the compensation assessed pursuant to chapters 616A to 617, inclusive, of NRS. The provisions of this section do not apply to the payment of a bill for accident benefits that is governed by the provisions of NRS 616C.136.

~~[4.]~~ ***5.*** The insurer shall notify the claimant or the person acting on behalf of the claimant that a claim has been accepted or denied pursuant to subsection 1 ***or 2*** by:

(a) Mailing its written determination to the claimant or the person acting on behalf of the claimant; and

(b) If the claim has been denied, in whole or in part, obtaining a certificate of mailing.

~~[5.]~~ ***6.*** The failure of the insurer to obtain a certificate of mailing as required by paragraph (b) of subsection ~~[4]~~ ***5*** shall be deemed to be a failure of the insurer to mail the written determination of the denial of a claim as required by this section.

~~[6.]~~ ***7.*** Upon request, the insurer shall provide a copy of the certificate of mailing, if any, to the claimant or the person acting on behalf of the claimant.

~~[7.]~~ ***8.*** For the purposes of this section, the insurer shall mail the written determination to:

(a) The mailing address of the claimant or the person acting on behalf of the claimant that is provided on the form prescribed by the Administrator for filing the claim; or

(b) Another mailing address if the claimant or the person acting on behalf of the claimant provides to the insurer written notice of another mailing address.

~~[8.]~~ ***9.*** As used in this section, "certificate of mailing" means a receipt that provides evidence of the date on which the insurer presented its written determination to the United States Postal Service for mailing.

Sec. 3. NRS 616C.090 is hereby amended to read as follows:

616C.090 1. The Administrator shall establish a panel of physicians and chiropractors who have demonstrated special competence and interest in industrial health to treat injured employees under chapters 616A to 616D, inclusive, or chapter 617 of NRS. Every employer whose insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 shall maintain a list of those physicians and chiropractors on the panel who are reasonably accessible to his employees.

2. An injured employee whose employer's insurer has not entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 may choose his treating physician or chiropractor from the panel of physicians and chiropractors. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor from the panel if the choice is made within 90 days after his injury. The insurer shall notify the first physician or chiropractor in writing. The notice must be postmarked within 3 working days after the insurer receives knowledge of the change. The first physician or chiropractor must be reimbursed only for the services he rendered to the injured employee up to and including the date of notification. Except as otherwise provided in this subsection, any further change is subject to the approval of the insurer, which must be granted or denied within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is on the panel. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list.

3. An injured employee whose employer's insurer has entered into a contract with an organization for managed care or with providers of health care services pursuant to NRS 616B.527 must choose his treating physician or chiropractor pursuant to the terms of that contract. If the injured employee is not satisfied with the first physician or chiropractor he so chooses, he may make an alternative choice of physician or chiropractor pursuant to the terms of the contract ***without the approval of the insurer*** if the choice is made within 90 days after his injury. If the injured employee, after choosing his treating physician or chiropractor, moves to a county which is not served by the organization for managed care or providers of health care services named in the contract and the insurer determines that it is impractical for the injured employee to continue treatment with the physician or chiropractor, the injured employee must choose a treating physician or chiropractor who has agreed to the terms of that contract unless the insurer authorizes the injured employee to choose another physician or chiropractor. If the treating physician or chiropractor refers the injured employee to a specialist for treatment, the treating physician or chiropractor shall provide to the injured employee a list that includes the name of each physician or chiropractor with that specialization who is available pursuant to the terms of the contract with the organization for managed care or with providers of health care services pursuant to NRS 616B.527, as appropriate. After receiving the list, the injured employee shall, at the time the referral is made, select a physician or chiropractor from the list. If the employee fails to select a physician or chiropractor, the insurer may select a physician or chiropractor with that specialization. If a physician or chiropractor with that specialization is not available pursuant to the terms of the contract, the organization for managed care or the provider of health care services may select a physician or chiropractor with that specialization.

4. ***If the injured employee is not satisfied with the physician or chiropractor selected by himself or by the insurer, the organization for managed care or the provider of health care services pursuant to subsection 3, the injured employee may make an alternative choice of physician or chiropractor pursuant to the terms of the contract. A change in the treating physician or chiropractor may be made at any time but is subject to the approval of the insurer, which must be granted within 10 days after a written request for such a change is received from the injured employee. If no action is taken on the request within 10 days, the request shall be deemed granted. Any request for a change of physician or chiropractor must include the name of the new physician or chiropractor chosen by the injured employee. If the insurer denies a request for a change in the treating physician or chiropractor under this subsection, the insurer must include in a written notice of denial to the injured employee the specific reason for the denial of the request.***

5. Except when emergency medical care is required and except as otherwise provided in NRS 616C.055, the insurer is not responsible for any

charges for medical treatment or other accident benefits furnished or ordered by any physician, chiropractor or other person selected by the injured employee in disregard of the provisions of this section or for any compensation for any aggravation of the injured employee's injury attributable to improper treatments by such physician, chiropractor or other person.

~~[5.]~~ ***6.*** The Administrator may order necessary changes in a panel of physicians and chiropractors and shall suspend or remove any physician or chiropractor from a panel for good cause shown.

~~[6.]~~ ***7.*** An injured employee may receive treatment by more than one physician or chiropractor if the insurer provides written authorization for such treatment.

~~[7.]~~ ***8.*** The Administrator shall design a form that notifies injured employees of their right pursuant to subsections 2 ***,*** ~~[and]~~ 3 ***and 4*** to select an alternative treating physician or chiropractor and make the form available to insurers for distribution pursuant to subsection 2 of NRS 616C.050.

Sec. 4. NRS 616C.230 is hereby amended to read as follows:

616C.230 1. Compensation is not payable pursuant to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS for an injury:

(a) Caused by the employee's willful intention to injure himself.

(b) Caused by the employee's willful intention to injure another.

(c) Proximately caused by the employee's intoxication. If the employee was intoxicated at the time of his injury, intoxication must be presumed to be a proximate cause unless rebutted by evidence to the contrary.

(d) Proximately caused by the employee's use of a controlled substance. If the employee had any amount of a controlled substance in his system at the time of his injury for which the employee did not have a current and lawful prescription issued in his name or that he was not using in accordance with the provisions of chapter 453A of NRS, the controlled substance must be presumed to be a proximate cause unless rebutted by evidence to the contrary.

2. For the purposes of paragraphs (c) and (d) of subsection 1:

(a) The affidavit or declaration of an expert or other person described in NRS ***50.310,*** 50.315 ***or 50.320*** is admissible to prove the existence of any alcohol or the existence, quantity or identity of a controlled substance in an employee's system. If the affidavit or declaration is to be so used, it must be submitted in the manner prescribed in NRS 616C.355.

(b) When an examination requested or ordered includes testing for the use of alcohol or a controlled substance, the laboratory that conducts the testing must be licensed pursuant to the provisions of chapter 652 of NRS.

3. No compensation is payable for the death, disability or treatment of an employee if his death is caused by, or insofar as his disability is aggravated, caused or continued by, an unreasonable refusal or neglect to submit to or to follow any competent and reasonable surgical treatment or medical aid.

4. If any employee persists in an unsanitary or injurious practice that imperils or retards his recovery, or refuses to submit to such medical or surgical treatment as is necessary to promote his recovery, his compensation may be reduced or suspended.

5. An injured employee's compensation, other than accident benefits, must be suspended if:

(a) A physician or chiropractor determines that the employee is unable to undergo treatment, testing or examination for the industrial injury solely because of a condition or injury that did not arise out of and in the course of his employment; and

(b) It is within the ability of the employee to correct the nonindustrial condition or injury.

➥ The compensation must be suspended until the injured employee is able to resume treatment, testing or examination for the industrial injury. The insurer may elect to pay for the treatment of the nonindustrial condition or injury.

Sec. 5. NRS 616C.232 is hereby amended to read as follows:

616C.232 1. If an injured employee is discharged from his employment as a result of misconduct, an insurer may deny compensation ***for temporary total disability*** to the injured employee because of that discharge for misconduct only if the insurer proves by a preponderance of the evidence that:

(a) The injured employee was discharged from his employment solely for his misconduct and not for any reason relating to his claim for compensation; and

(b) It is the injured employee's discharge from his employment for misconduct, and not his injury, that is the sole cause for the injured employee's inability to return to work with the preinjury employer . ~~*[; and*~~

~~*(c) If the injured employee had not been discharged from his employment for misconduct, the preinjury employer would be entitled to return the injured employee to work at:*~~

~~*(1) The position the employee held at the time of his injury; or*~~

~~*(2) Temporary, light-duty employment or employment that is modified according to the limitations or restrictions imposed by a physician or chiropractor, as provided in NRS 616C.475.]*~~

2. An insurer waives its rights under subsection 1 if the insurer does not make a determination to deny or suspend compensation to the injured employee within 70 days after the date on which the insurer learns that the injured employee has been discharged for misconduct.

3. An insurer may not deny any compensation pursuant to this section except for compensation for temporary total disability pursuant to subsection 1.

Sec. 5.5. **NRS 616C.235 is hereby amended to read as follows:**

616C.235 1. Except as otherwise provided in subsections 2, 3 and 4:

(a) When the insurer determines that a claim should be closed before all benefits to which the claimant may be entitled have been paid, the insurer

shall send a written notice of its intention to close the claim to the claimant by first-class mail addressed to the last known address of the claimant and, if the insurer has been notified that the claimant is represented by an attorney, to the attorney for the claimant by first-class mail addressed to the last known address of the attorney. The notice must include, on a separate page, a statement describing the effects of closing a claim pursuant to this section and a statement that if the claimant does not agree with the determination, he has a right to request a resolution of the dispute pursuant to NRS 616C.305 and 616C.315 to 616C.385, inclusive, including, without limitation, a statement which prominently displays the limit on the time that the claimant has to request a resolution of the dispute as set forth in NRS 616C.315. A suitable form for requesting a resolution of the dispute must be enclosed with the notice. The closure of a claim pursuant to this subsection is not effective unless notice is given as required by this subsection.

(b) If the insurer does not receive a request for the resolution of the dispute, it may close the claim.

(c) Notwithstanding the provisions of NRS 233B.125, if a hearing is conducted to resolve the dispute, the decision of the hearing officer may be served by first-class mail.

2. If, during the first 12 months after a claim is opened, the medical benefits required to be paid for a claim are less than $300, the insurer may close the claim at any time after he sends, by first-class mail addressed to the last known address of the claimant, written notice that includes a statement which prominently displays that:

(a) The claim is being closed pursuant to this subsection;

(b) The injured employee may appeal the closure of the claim pursuant to the provisions of NRS 616C.305 and 616C.315 to 616C.385, inclusive; and

(c) If the injured employee does not appeal the closure of the claim or appeals the closure of the claim but is not successful, the claim cannot be reopened.

3. In addition to the notice described in subsection 2, an insurer shall send to each claimant who receives less than $300 in medical benefits within 6 months after the claim is opened a written notice that explains the circumstances under which a claim may be closed pursuant to subsection 2. The written notice provided pursuant to this subsection does not create any right to appeal the contents of that notice. The written notice must be:

(a) Sent by first-class mail addressed to the last known address of the claimant; and

(b) A document that is separate from any other document or form that is used by the insurer.

4. The closure of a claim pursuant to subsection 2 is not effective unless notice is given as required by subsections 2 and 3.

5. In addition to the requirements of this section, an insurer shall include in the written notice described in subsection 2:

(a) If an evaluation for a permanent partial disability has been scheduled pursuant to NRS 616C.490, a statement to that effect; or

(b) If an evaluation for a permanent partial disability will not be scheduled pursuant to NRS 616C.490, a statement explaining that the reason is because the insurer has determined there is no possibility of a permanent impairment of any kind.

Sec. 6. ~~[NRS 616C.390 is hereby amended to read as follows:~~

~~616C.390 Except as otherwise provided in NRS 616C.392:~~

~~1. If an application to reopen a claim to increase or rearrange compensation is made in writing more than 1 year after the date on which the claim was closed, the insurer shall reopen the claim if:~~

~~(a) A change of circumstances warrants an increase or rearrangement of compensation during the life of the claimant;~~

~~(b) [The primary] A substantial contributing cause of the change of circumstances is the injury for which the claim was originally made; and~~

~~(c) The application is accompanied by the certificate of a physician or a chiropractor showing a change of circumstances which would warrant an increase or rearrangement of compensation.~~

~~2. After a claim has been closed, the insurer, upon receiving an application and for good cause shown, may authorize the reopening of the claim for medical investigation only. The application must be accompanied by a written request for treatment from the physician or chiropractor treating the claimant, certifying that the treatment is indicated by a change in circumstances and is related to the industrial injury sustained by the claimant.~~

~~3. If a claimant applies for a claim to be reopened pursuant to subsection 1 or 2 and a final determination denying the reopening is issued, the claimant shall not reapply to reopen the claim until at least 1 year after the date on which the final determination is issued.~~

~~4. Except as otherwise provided in subsection 5, if an application to reopen a claim is made in writing within 1 year after the date on which the claim was closed, the insurer shall reopen the claim only if:~~

~~(a) The application is supported by medical evidence demonstrating an objective change in the medical condition of the claimant; and~~

~~(b) There is clear and convincing evidence that [the primary] a substantial contributing cause of the change of circumstances is the injury for which the claim was originally made.~~

~~5. An application to reopen a claim must be made in writing within 1 year after the date on which the claim was closed if:~~

~~(a) The claimant was not off work as a result of the injury; and~~

~~(b) The claimant did not receive benefits for a permanent partial disability.~~

~~6. If an application to reopen a claim to increase or rearrange compensation is made pursuant to this subsection, the insurer shall reopen the claim if the requirements set forth in paragraphs (a), (b) and (c) of subsection 1 are met.~~

~~6. If an employee's claim is reopened pursuant to this section, he is not entitled to vocational rehabilitation services or benefits for a temporary total disability if, before his claim was reopened, he:~~

~~(a) Retired; or~~

~~(b) Otherwise voluntarily removed himself from the workforce,~~

~~→ for reasons unrelated to the injury for which the claim was originally made.~~

~~7. One year after the date on which the claim was closed, an insurer may dispose of the file of a claim authorized to be reopened pursuant to subsection 5, unless an application to reopen the claim has been filed pursuant to that subsection.~~

~~8. An increase or rearrangement of compensation is not effective before an application for reopening a claim is made unless good cause is shown. The insurer shall, upon good cause shown, allow the cost of emergency treatment , the necessity for which has been certified by a physician or a chiropractor.~~

~~9. A claim that closes pursuant to subsection 2 of NRS 616C.235 and is not appealed or is unsuccessfully appealed pursuant to the provisions of NRS 616C.305 and 616C.315 to 616C.385, inclusive, may not be reopened pursuant to this section.~~

~~10. The provisions of this section apply to any claim for which an application to reopen the claim or to increase or rearrange compensation is made pursuant to this section, regardless of the date of the injury or accident to the claimant. If a claim is reopened pursuant to this section, the amount of any compensation or benefits provided must be determined in accordance with the provisions of NRS 616C.425.~~**] (Deleted by amendment.)**

Sec. 7. ~~[NRS 616C.392 is hereby amended to read as follows:~~

~~616C.392 1. An insurer shall reopen a claim to consider the payment of compensation for a permanent partial disability if:~~

~~(a) The claim was closed and the claimant was not scheduled for an evaluation of the injury in accordance with NRS 616C.490;~~ ***and***

~~(b) The claimant demonstrates by a preponderance of the evidence that, at the time that the case was closed, the claimant was, because of the injury, qualified to be scheduled for an evaluation for a permanent partial disability .~~ **[**~~; and~~

~~(c) The insurer has violated a provision of NRS 616D.120 with regard to the claim.~~

~~2. The demonstration required pursuant to paragraph (b) of subsection 1 must be made with documentation that existed at the time that the case was closed.~~

~~3.~~**] 2.** ~~Notwithstanding any specific statutory provision to the contrary, the consideration of whether a claimant is entitled to payment of compensation for a permanent partial disability for a claim that is reopened pursuant to this section must be made in accordance with the provisions of the applicable statutory and regulatory provisions that existed on the date on which the claim was closed, including, without limitation, using the edition~~

~~of the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted by the Division pursuant to NRS 616C.110 that was applicable on the date the claim was closed.]~~ **(Deleted by amendment.)**

Sec. 8. NRS 616C.475 is hereby amended to read as follows:

616C.475 1. Except as otherwise provided in this section, NRS 616C.175 and 616C.390, every employee in the employ of an employer, within the provisions of chapters 616A to 616D, inclusive, of NRS, who is injured by accident arising out of and in the course of employment, or his dependents, is entitled to receive for the period of temporary total disability, 66 2/3 percent of the average monthly wage.

2. Except as otherwise provided in NRS 616B.028 and 616B.029, an injured employee or his dependents are not entitled to accrue or be paid any benefits for a temporary total disability during the time the injured employee is incarcerated. The injured employee or his dependents are entitled to receive such benefits when the injured employee is released from incarceration if he is certified as temporarily totally disabled by a physician or chiropractor.

3. If a claim for the period of temporary total disability is allowed, the first payment pursuant to this section must be issued by the insurer within 14 working days after receipt of the initial certification of disability and regularly thereafter.

4. Any increase in compensation and benefits effected by the amendment of subsection 1 is not retroactive.

5. Payments for a temporary total disability must cease when:

(a) A physician or chiropractor determines that the employee is physically capable of any gainful employment for which the employee is suited, after giving consideration to the employee's education, training and experience;

(b) The employer offers the employee light-duty employment or employment that is modified according to the limitations or restrictions imposed by a physician or chiropractor pursuant to subsection 7; or

(c) Except as otherwise provided in NRS 616B.028 and 616B.029, the employee is incarcerated.

6. Each insurer may, with each check that it issues to an injured employee for a temporary total disability, include a form approved by the Division for the injured employee to request continued compensation for the temporary total disability.

7. A certification of disability issued by a physician or chiropractor must:

(a) Include the period of disability and a description of any physical limitations or restrictions imposed upon the work of the employee;

(b) Specify whether the limitations or restrictions are permanent or temporary; and

(c) Be signed by the treating physician or chiropractor authorized pursuant to NRS 616B.527 or appropriately chosen pursuant to subsection 3 ***or 4*** of NRS 616C.090.

8. If the certification of disability specifies that the physical limitations or restrictions are temporary, the employer of the employee at the time of his accident may offer temporary, light-duty employment to the employee. If the employer makes such an offer, the employer shall confirm the offer in writing within 10 days after making the offer. The making, acceptance or rejection of an offer of temporary, light-duty employment pursuant to this subsection does not affect the eligibility of the employee to receive vocational rehabilitation services, including compensation, and does not exempt the employer from complying with NRS 616C.545 to 616C.575, inclusive, and 616C.590 or the regulations adopted by the Division governing vocational rehabilitation services. Any offer of temporary, light-duty employment made by the employer must specify a position that:

(a) Is substantially similar to the employee's position at the time of his injury in relation to the location of the employment and the hours he is required to work;

(b) Provides a gross wage that is:

(1) If the position is in the same classification of employment, equal to the gross wage the employee was earning at the time of his injury; or

(2) If the position is not in the same classification of employment, substantially similar to the gross wage the employee was earning at the time of his injury; and

(c) Has the same employment benefits as the position of the employee at the time of his injury.

Sec. 9. NRS 616C.430 is hereby repealed.

Sec. 10. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTION

616C.430 Reduction of compensation by amount of federal disability insurance benefits received by employee.

1. If an employee who is entitled to compensation under chapters 616A to 616D, inclusive, of NRS for temporary total disability, permanent partial disability or permanent total disability becomes entitled to federal disability insurance benefits under section 202 or 223 of the Social Security Act, as amended, 42 U.S.C. §§ 402 and 423, respectively, the employee's compensation under chapters 616A to 616D, inclusive, of NRS must be reduced by the amount of the federal benefits being received by him.

2. This section must not be applied to reduce the employee's compensation under chapters 616A to 616D, inclusive, of NRS to any greater extent than his federal benefits would have otherwise been reduced by the Social Security Administration under section 224 of the Social Security Act, as amended, 42 U.S.C. § 424a. After any reduction pursuant to this section, the combination of his state compensation and federal benefits must be at least as much as the greater of:

(a) The benefits payable pursuant to chapters 616A to 616D, inclusive, of NRS, without the reduction; or

(b) The benefits payable under the Social Security Act, without any reduction.

3. After a reduced amount of compensation for an employee has been established pursuant to this section, no further reduction in his compensation may be made because he receives an increase in his benefits under the Social Security Act as the result of an adjustment based on an increase in the cost of living.

4. No compensation may be reduced pursuant to this section until the Social Security Administration has determined the amount of benefits payable to the employee under section 202 or 223 of the Social Security Act and he has begun to receive those benefits.

5. If an employee:

(a) Fails to report the amount of benefits which he is receiving under section 202 or 223 of the Social Security Act, within 30 days after he is requested in writing by the insurer to make that report; or

(b) Fails to provide the insurer with a written authorization for the Social Security Administration to release information on the employee's average current earnings and the amount of benefits to which he is entitled, within 30 days after he is requested to provide that authorization,

➥ the insurer may reduce by 50 percent the compensation which the employee would otherwise receive pursuant to chapters 616A to 616D, inclusive, of NRS. Any compensation which is withheld pursuant to this subsection must be paid to the employee when he has furnished the report or authorization as requested.

6. If the provisions of section 224 of the Social Security Act are amended:

(a) To allow an employee to receive more compensation under chapters 616A to 616D, inclusive, of NRS without any reduction in benefits payable under section 202 or 223 of the Social Security Act; or

(b) To lower the maximum sum of compensation payable under chapters 616A to 616D, inclusive, of NRS and benefits payable under section 202 or 223 of the Social Security Act,

➥ the reduction imposed by this section must be increased or decreased correspondingly.

7. No reduction in compensation may be made under this section for any period of entitlement which:

(a) Occurs before January 1, 1982;

(b) Occurs before the employee has been given a written notice by mail of the intended reduction; or

(c) Includes any week after the week in which the employee becomes 62 years of age.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 54.

Bill read second time.

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

Amendment No. 465.

SUMMARY—Authorizes certain counties to ~~[require that certain owners and occupants of property connect to a public water or sewer system.]~~ **establish programs to provide financial assistance to certain persons.** (BDR 20-473)

AN ACT relating to counties; ~~[authorizing certain counties to require that certain owners and occupants of property connect to a public water or sewer system;]~~ authorizing a board of county commissioners in ~~[such a county]~~ **certain counties** to establish ~~[a program]~~ **programs** to provide financial assistance to ~~[such]~~ persons ~~[,]~~ **to connect to a public water or sewer system or to make property resistant to flood damage;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill authorizes the board of county commissioners of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to ~~[require an owner or occupant of property located outside a city or town to connect to a public water or sewer system. This bill also authorizes such a board of county commissioners to]~~ establish **: (1)** a program to provide financial assistance to persons ~~[who are required]~~ to connect to ~~[the]~~ **a** public water or sewer system ~~[. Existing law already allows the board of county commissioners of a county whose population is 400,000 or more (currently Clark County) to require disconnection from private sewer systems. (NRS 244.366) Existing law also already allows the board of county commissioners of any county to require certain persons to connect to an available water system if the State Environmental Commission makes certain determinations. (NRS 244.3655) Under the provisions of this bill, no determinations by the State Environmental Commission are required.]~~ **under certain circumstances; and (2) a program to provide financial assistance to owners of public or private property to make such property resistant to flood damage.**

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 2 and 3 of this act.**

Sec. 2. 1. ~~*[The]*~~ ***Except as otherwise provided in this section, if a board of county commissioners of a county whose population is 100,000 or more but less than 400,000*** *~~[, upon such terms and conditions as the board may set forth:~~*

~~(a) Has the power, outside of the limits of incorporated cities and towns:~~

~~*(1) To provide that it is unlawful for any persons, associations and corporations owning, occupying or in any way controlling any building or other structure, any part of which is within 400 feet of any street, alley, court, passageway, other public highway, right of way, easement or other alley owned or occupied by the county in which a public water or sewer system is then in existence and use, to construct, otherwise acquire, to cause or permit to be constructed or otherwise acquired, or to use or continue to use any private water or sewer system.*~~

~~*(2) To provide for the disconnection of plumbing facilities from private water or sewer systems described in subparagraph (1) and for the discontinuance and elimination of such private water or sewer systems.*~~

~~*(3) To require that a person, association or corporation described in subparagraph (1) connect to the public water or sewer system which is then in existence and use.*~~

~~*(b) May establish and operate]*~~ ***operates a public water or sewer system, the board may:***

(a) Establish by ordinance a program to provide financial assistance to persons ~~*[that the county requires]*~~ ***within a particular water basin to connect to*** ~~*[a]*~~ ***the public water or sewer system .*** ~~*[pursuant to this subsection.*~~

~~*(c) May accept]*~~

(b) Accept gifts, grants and other sources of money to pay the costs associated with a program established pursuant to paragraph ~~*[(b).]*~~ ***(a).***

2. An ordinance adopted by a board of county commissioners pursuant to paragraph (a) of subsection 1 must include, without limitation, a finding of the board that the creation of a program to provide financial assistance to persons to connect to a public water or sewer system furthers a legitimate public purpose.

3. If a board of county commissioners establishes a program to provide financial assistance pursuant to subsection 1, the board:

(a) Must establish a plan for the management and protection of the groundwater in the water basin to which the program to provide financial assistance applies. Such a plan must include, without limitation, provisions for the management of the use of the groundwater in the water basin by residents of the county and other users of water in the county.

(b) Except as otherwise provided in subsection 4, may set forth conditions or limitations on any financial assistance provided pursuant to the program.

4. Financial assistance provided pursuant to a program established pursuant to subsection 1:

(a) May be in the form of grants or loans, or any combination thereof.

(b) May only be used to pay the necessary and actual expenses to:

(1) Disconnect from a private water or sewer system;

(2) Eliminate a private water or sewer system; and

(3) Connect to the public water or sewer system.

5. A board may not establish a program to provide financial assistance pursuant to subsection 1 unless the board finds that establishing such a program is necessary to provide the public with a safe and reliable water and sewer system.

6. The requirements of NRS 244.3655 do not apply to actions taken by a board of county commissioners pursuant to this section.

7. Nothing in this section shall be so construed as to require:

(a) A board of county commissioners to provide financial assistance to any property owner pursuant to this section; or

(b) A property owner to apply for or accept financial assistance pursuant to a program of financial assistance established pursuant to this program.

~~[3.]~~ *8. As used in this section, "water or sewer system" means a facility or facilities for the collection, pumping, treatment, storage or conveyance of water or sewage and includes, without limitation, mains, conduits, aqueducts, pipes, pipelines, ditches, canals, pumping stations, and all appurtenances, equipment and machinery necessary or useful and convenient for obtaining, storing, transporting or transferring water or sewage.*

Sec. 3. 1. Except as otherwise provided in this section, a board of county commissioners of a county whose population is 100,000 or more but less than 400,000 may:

(a) Establish by ordinance a program to provide financial assistance to owners of public and private property in areas that are likely to be flooded in order to make such property resistant to flood damage.

(b) Accept gifts, grants and other sources of money to pay the costs associated with a program established pursuant to paragraph (a).

(c) Pay costs associated with a program established pursuant to paragraph (a) through the use of:

(1) Revenue and bond proceeds derived from a flood management project, except that no bond proceeds may be used to provide any loans pursuant to the program.

(2) Funds from the infrastructure fund of the county.

(3) Gifts, grants and other sources of money available to the board of county commissioners.

2. An ordinance adopted by a board of county commissioners pursuant to paragraph (a) of subsection 1:

(a) Must include, without limitation, a finding of the board that the creation of a program to provide financial assistance to owners of public and private property in areas that are likely to be flooded is necessary to promote and protect the public health, safety and welfare.

(b) May include a provision that the award of financial assistance is subject to any limitation or condition that the board determines is necessary.

3. Financial assistance provided pursuant to a program established pursuant to subsection 1:

(a) May be in the form of grants or loans, or any combination thereof.

(b) May only be used to pay the actual and necessary costs to make private or public property resistant to flood damage, including, without limitation, flood-proofing the property, erecting barriers, elevating foundations of buildings, structures or improvements, and relocating buildings, structures or improvements to areas that are not likely to be flooded.

(c) May not be awarded:

(1) To protect any building, structure or improvement unless the building, structure or improvement exists or construction has begun on the building, structure or improvement on or before July 1, 2009.

(2) To relocate any building, structure or improvement to property that is also in an area likely to be flooded.

(3) Unless the property owner:

(I) Submits an application for financial assistance on or before June 30, 2019.

(II) Has not received and agrees not to apply for any further financial assistance to make his property resistant to flood damage from a tourism improvement district established pursuant to NRS 271A.070, a tax increment area created pursuant to NRS 278C.155, a redevelopment area established pursuant to NRS 279.426, a program for the rehabilitation of residential neighborhoods established pursuant to NRS 279A.030 or a program for the rehabilitation of abandoned residential properties established pursuant to NRS 279B.030.

(III) Satisfies any conditions adopted by the board of county commissioners.

4. The board of county commissioners may delegate its authority to administer a program of financial assistance established pursuant to this section to a flood management authority.

5. The board of county commissioners or, if the board has delegated its authority to administer a program of financial assistance pursuant to subsection 4, a flood management authority may bring an action against the property owner for the collection of any delinquent payments, charges, fees, interest or penalties related to any loan provided pursuant to a program established pursuant to this section.

6. Nothing in this section shall be so construed as to require:

(a) A board of county commissioners to provide financial assistance to any property owner pursuant to this section; or

(b) A property owner to apply for or accept financial assistance pursuant to a program of financial assistance established pursuant to this program.

7. As used in this section:

(a) "Drainage and flood control project" has the meaning ascribed to it in NRS 244A.027.

(b) "Flood management authority" means any entity that is created by cooperative agreement pursuant to chapter 277 of NRS, the functions of

which include the acquisition, construction, improvement, operation and maintenance of a flood management project.

(c) "Flood management project," or any phrase of similar import, means a project or improvement that is located within or without a county whose population is 100,000 or more but less than 400,000 and is established for the control or management of any flood or storm waters of the county or any flood or storm waters of a stream of which the source is located outside of the county. The term includes, without limitation:

(1) A drainage and flood control project;

(2) A project to construct, repair or restore an ecosystem;

(3) A project to mitigate any adverse effect of flooding or flood management activity or improvement;

(4) A project to conserve any flood or storm waters for any beneficial and useful purpose by spreading, storing, reusing or retaining those waters or causing those waters to percolate into the ground to improve water quality;

(5) A project that alters or diverts or proposes to alter or divert a natural watercourse, including any improvement for the passage of fish;

(6) A park project that is related to a flood management project;

(7) Any landscaping or similar amenity that is constructed:

(I) To increase the usefulness of a flood management project to any community or to provide aesthetic compatibility with any surrounding community; or

(II) To mitigate any adverse effect on the environment relating to a flood management project;

(8) A project to relocate or replace a utility, transmission line, conduit, bridge or similar feature or structure that exacerbates any flooding or is located in an area that is susceptible to flooding;

(9) A project to protect and manage a floodplain;

(10) A project that is designed to improve the quality of any flood or storm waters or the operation of any flood management system, including, without limitation, any monitoring, measurement or assessment of that system; and

(11) Any real property or interest in real property that is acquired to support the carrying out of a flood management project, including, without limitation, any property that may become flooded because of any improvement for flood management, or any combination thereof and any other structure, fixture, equipment or property required for a flood management project.

Sec. 4. **NRS 244.36605 is hereby amended to read as follows:**

244.36605 ***1. In a county whose population is 100,000 or more but less than 400,000, if the county provides financial assistance through a program established pursuant to section 2 or 3 of this act, the board of county commissioners may elect by ordinance to have delinquent repayments of loans, including, without limitation, charges, fees, interest***

and penalties, collected on the tax roll, or collected with the property taxes due on mobile or manufactured homes that do not meet the requirements of NRS 361.244, in the same manner, by the same persons, and at the same time as, together with and not separately from, the county's general taxes. If the board makes such an election, the board shall cause:

(a) A description of each lot or parcel of real property or each mobile or manufactured home with respect to which the charges are delinquent on May 1; and

(b) The amount of the delinquent charges,

➥ to be prepared and submitted to the tax receiver of the county, in a form approved by the tax receiver, not later than June 1.

2. In a county whose population is less than 400,000:

~~[1.]~~ ***(a)*** The board of county commissioners of a county which provides sewerage, storm drainage or water service, or any combination of those services, may elect by ordinance to have delinquent charges for any or all of those services collected on the tax roll, or collected with the property taxes due on mobile or manufactured homes that do not meet the requirements of NRS 361.244, in the same manner, by the same persons, and at the same time as, together with and not separately from, the county's general taxes. If the board makes such an election, the board shall cause:

~~[(a)]~~ ***(1)*** A description of each lot or parcel of real property or each mobile or manufactured home with respect to which the charges are delinquent on May 1; and

~~[(b)]~~ ***(2)*** The amount of the delinquent charges,

➥ to be prepared and submitted to the tax receiver of the county, in a form approved by the tax receiver, no later than June 1.

~~[2.]~~ ***(b)*** The powers authorized by this section are alternative to all other powers of the county for the collection of such delinquent charges ~~[.~~

~~3.]~~ ***or repayments.***

(c) The real property may be described by reference to maps prepared by and on file in the office of the county assessor or by descriptions used by him.

~~[4.]~~ ***(d)*** The amount of any such delinquent charge ***or repayment*** constitutes a lien against the lot or parcel of land or mobile or manufactured home against which the charge has been imposed as of the time when the lien of taxes on the roll or on mobile or manufactured homes attach.

~~[5.]~~ ***(e)*** Except as otherwise provided in ~~[subsection 7,]~~ ***paragraph (g),*** the tax receiver of the county shall include the amount of the delinquent charges ***or repayments*** on bills for taxes levied against the respective lots and parcels of land or mobile or manufactured homes, as applicable. Thereafter the amount of the delinquent charges ***or repayments*** must be collected at the same time and in the same manner and by the same persons as, together with and not separately from, the general taxes for the county.

~~[6.]~~ ***(f)*** All laws applicable to the levy, collection and enforcement of general taxes of the county, including, but not limited to, those pertaining to

the matters of delinquency, correction, cancellation, refund, redemption and sale, are applicable to delinquent charges ~~[for services]~~ ***or repayments*** that are collected in the manner authorized by this section.

~~[7.]~~ ***(g)*** The tax receiver of the county may issue separate bills for delinquent charges ***or repayments*** that are collected in the manner authorized by this section and separate receipts for collection on account of those charges.

Sec. 5. **NRS 377B.160 is hereby amended to read as follows:**

377B.160 The money in the infrastructure fund, including interest and any other income from the fund:

1. In a county whose population is 400,000 or more, must only be expended by the water authority, distributed by the water authority to its members, distributed by the water authority pursuant to NRS 377B.170 to a city or town located in the county whose territory is not within the boundaries of the area served by the water authority or to a public entity in the county which provides water or wastewater services and which is not a member of the water authority or, if no water authority exists in the county, expended by the board of county commissioners for:

(a) The acquisition, establishment, construction, improvement or equipping of water and wastewater facilities;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a); or

(c) Any combination of those purposes.

➥ The board of county commissioners may only expend money from the infrastructure fund pursuant to this subsection in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100.

2. In a county whose population is 100,000 or more but less than 400,000, must only be expended by the board of county commissioners in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100 for:

(a) The acquisition, establishment, construction or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities relating to public safety;

(b) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects described in paragraph (a);

(c) The ongoing expenses of operation and maintenance of projects described in subparagraph (1) of paragraph (a), if such projects were included in a plan adopted by the board of county commissioners pursuant to subsection 6 of NRS 377B.100 before January 1, 2003; ~~[or]~~

(d) ***Any program to provide financial assistance to owners of public and private property in areas likely to be flooded in order to make such property***

resistant to flood damage that is established pursuant to section 3 of this act; or

(e) Any combination of those purposes.

3. In a county whose population is less than 100,000, must only be expended by the board of county commissioners in the manner set forth in the plan adopted pursuant to subsection 6 of NRS 377B.100 for:

(a) The acquisition, establishment, construction, improvement or equipping of:

(1) Water facilities; or

(2) Wastewater facilities;

(b) The acquisition, establishment, construction, operation, maintenance or expansion of:

(1) Projects for the management of floodplains or the prevention of floods; or

(2) Facilities for the disposal of solid waste;

(c) The construction or renovation of facilities for schools;

(d) The construction or renovation of facilities having cultural or historical value;

(e) Projects described in subsection 2 of NRS 373.028;

(f) The acquisition, establishment, construction, expansion, improvement or equipping of facilities relating to public safety or to cultural and recreational or judicial functions;

(g) The payment of principal and interest on notes, bonds or other securities issued to provide money for the cost of projects, facilities and activities described in paragraphs (a) to (f), inclusive; or

(h) Any combination of those purposes.

~~[Sec. 2.]~~ ***Sec. 6.*** This act becomes effective upon passage and approval.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 82.

Bill read second time.

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

Amendment No. 405.

AN ACT relating to elections; making various changes relating to the administration and conduct of elections; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.5 of this bill sets forth requirements for and responsibilities of an organizer of a voter registration drive, including registering with the Secretary of State and attending training offered by the Secretary of

State, and provides for penalties and the imposition of fines for violations.

~~[Under existing law, most candidates for public office are required to file a declaration of candidacy or an acceptance of candidacy not earlier than the first Monday in May of the year in which the election is to be held or later than 5 p.m. on the second Friday after the first Monday in May. (NRS 293.1715, 293.1725, 293.177, 293.200) Sections 2-4 and 6 of this bill provide that all declarations or acceptances of candidacy and related documents must be filed not earlier than the first Monday in January of the year in which the election is to be held and not later than 5 p.m. on the second Friday after that first Monday in January.]~~

Section 5 of this bill increases the deadline for filing written challenges of candidacy from 5 days to ~~[15]~~ **10** days after the last day a person may withdraw his candidacy. NRS 293.182)

~~[Existing law provides that election precincts may contain a maximum of 1,500 active and registered voters.]~~ **Section 7** of this bill ~~[provides that in a county whose population is 400,000 or more (currently Clark County),]~~ **increases the maximum number of active and registered voters that** election precincts may contain ~~[a maximum of]~~ **from 1,500 to** 3,000 active and registered voters. (NRS 293.207)

Sections 8 and 15 of this bill provide that the creation of mailing precincts **or absent ballot mailing precincts** must be approved by the Secretary of State ~~[.]~~ **under certain circumstances.** (NRS 293.213, 293.343)

Sections ~~[1,]~~ 1.9, 9, 11, 12, 14, 20 and 22 of this bill authorize the Secretary of State to establish a system for electors in the State to register to vote electronically. (NRS 293.1277, 293.250, 293.272, 293.2725, 293.506 and 293.517)

Section 10 of this bill provides that if two or more candidates in an election have the same given name and surname and one candidate is an incumbent, the word "Incumbent" must be written on the ballot next to name of the candidate who is the incumbent. (NRS 293.2565) **Section 13 of this bill requires the posting at polling places on election day of information concerning the eligibility of a candidate, question or other matter to appear on the ballot as a result of judicial determination or by operation of law. (NRS 293.3025)**

Section 16 of this bill authorizes the Secretary of State to assess a charge, not to exceed the cost of printing the applications, against a political party or other entity that requests more than 50 applications to register to vote by mail ~~[.]~~ **in any 12-month period.** (NRS 293.443)

Existing law requires county clerks to report to the Secretary of State certain information regarding primary and general elections. The Secretary of State is required to report this information to the Legislature not later than 30 days before the start of a regular legislative session. Section 17.2 of this bill changes the deadline for that report to within 10 days before or after the first day of each regular legislative

session.
(NRS 293.4695)

Section 17.4 of this bill requires that recruitment offices of the United States Armed Forces serve as voter registration agencies. (NRS 293.504)

Section 18 of this bill prohibits a voter registration agency from **knowingly** employing a person whose duties will include the registration of voters if the person has been convicted of a felony involving theft, fraud or dishonesty. (NRS 293.5045)

Section 19 of this bill prohibits a county clerk from **knowingly** appointing to be a field registrar any person who has been convicted of a felony involving theft, fraud or dishonesty. (NRS 293.505)

Section 22.2 of this bill changes the date on which a person who registers to vote by mail is deemed to be registered to the earlier of the date on which the application is postmarked or received by the county clerk. (NRS 293.5235)

Section 23 of this bill amends the deadlines for the county clerk to transmit the number of registered voters in the county to the Secretary of State for the primary and general elections. (NRS 293.567)

Section 24 of this bill increases the penalty for intimidating voters from a gross misdemeanor to a category E felony. (NRS 293.710)

Section 25 of this bill increases the penalty for interfering with the conduct of an election from a gross misdemeanor to a category C felony. (NRS 293.730)

Section 25.2 of this bill provides that polling information from a voter regarding whether the voter intends to vote for or against a particular political party, candidate or ballot question is not "electioneering." (NRS 293.740)

Section 26 of this bill increases the penalty for the removal or destruction of certain voting supplies and equipment from a gross misdemeanor to a category B felony. (NRS 293.750)

Section 27 of this bill provides that if a person tampers or interferes with, or attempts to tamper or interfere with, a mechanical voting system, mechanical voting device or any computer program used to count ballots, such an act is punishable as: (1) a category B felony, punishable by imprisonment in the state prison for a minimum term of not less than 2 years or more than 10 years, if the act was committed with the intent to prevent the proper operation of that system, device or program; and (2) a category A felony, punishable by imprisonment in the state prison for a fixed term of 40 years, with eligibility for parole beginning when a minimum of 15 years has been served, if the act was committed with the intent to influence the outcome of an election. (NRS 293.755)

Section 28 of this bill makes certain unlawful acts relating to the registration of voters a category C felony rather than a category E felony. (NRS 293.800)

Section 29.3 of this bill requires certain persons to register with the Secretary of State before making an expenditure on behalf of a candidate or group of candidates which is not solicited or approved by the candidate or group.

Section 30 of this bill amends the definition of "committee for political action" to include a **natural** person**.** ~~[or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot at an election.]~~ (NRS 294A.0055)

Sections 29.5, 32.2-32.5, 33.1, 33.2, 34.2, 34.3, 35, 38.2, 40.5 and 41.5 of this bill provide that, except under certain circumstances, campaign contribution and expenditure reports related to candidates for state, county and district offices must be filed electronically with the Secretary of State. (NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280, 294A.362, 294A.373, 294A.390)

Sections 32, 36 and 36.5 of this bill prohibit: (1) a person from committing to make certain campaign contributions; and (2) a candidate from accepting a commitment to make certain campaign contributions. (NRS 294A.100, 294A.287, 294A.300)

Sections 33 and 35 of this bill provide the acceptable methods for disposing of unspent campaign contributions or unspent money in a legal defense fund. (NRS 294A.200, 294A.286)

Section 34 of this bill requires committees for political action to file with the Secretary of State an updated form of registration ~~[at least every 180 days.]~~ **on or before January 15 of each year.** (NRS 294A.230)

Existing law requires the Secretary of State to design a universal form for campaign contribution and expenditure reports. Section 40.5 of this bill requires the Secretary of State to design a form for each campaign contribution and expenditure report. (NRS 294A.373)

Sections 44.1, 44.2, 44.3 and 44.5-45.5 of this bill provide that, except under certain circumstances, appointed and elected public officers must file electronically statements of financial disclosure with the Secretary of State rather than the Nevada Commission on Ethics. (NRS 281A.290, 281A.600-281A.650) Section 44.4 of this bill requires that all ethical acknowledgment forms be filed with the Commission on Ethics not later than 30 days after a public officer takes office and annually thereafter on or before January 15. (NRS 281A.500)

Section 46 repeals provisions governing the registration of and reporting of contributions and expenses by certain persons and groups relating to ballot questions. (NRS 294A.150, 294A.220, 294A.281-294A.284)

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

Section 1. **Chapter 293 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.1, 1.3 and 1.5 of this act.**

Sec. 1.1. ***"Organizer of voter registration" means any person who organizes a voter registration drive pursuant to section 1.5 of this act.***

Sec. 1.3. ***"Voter registration drive" means distributing and collecting 10 or more applications to register to vote pursuant to section 1.5 of this act.***

Sec. 1.5. ***1. Before commencing a voter registration drive, the organizer of voter registration shall:***

(a) File a statement of intent to conduct voter registration with the Secretary of State in the form prescribed by the Secretary of State; and

(b) Complete a training course offered by the Secretary of State for organizers of voter registration.

2. An organizer of voter registration:

(a) Shall maintain in the State a registered agent who resides or is located in this State upon whom all legal process and any demand or notice authorized by law to be served upon it may be served. The organizer of voter registration shall include the contact information for the registered agent with the statement of intent filed pursuant to subsection 1.

(b) May register voters in this State.

(c) May employ persons to assist the organizer of voter registration in registering voters in the State. The organizer of voter registration shall not provide compensation to any person hired pursuant to this paragraph that is based on the number of completed applications to register to vote that the person submits.

(d) Shall not knowingly employ a person to register voters in this State if the person has been convicted of a felony involving theft, fraud or dishonesty.

3. Except as otherwise provided in this subsection, a completed application to register to vote that is collected pursuant to a voter registration drive must be:

(a) Delivered personally to the county clerk not later than 10 calendar days after the elector signs the application; or

(b) Mailed to the county clerk and postmarked not later than 10 calendar days after the elector signs the application.

➥ Any completed application to register to vote that is signed by an elector 14 calendar days or less before the date for the close of registration set forth in NRS 293.560 and 293C.527 must be delivered or postmarked on the day on which the elector signs the application.

4. A person who registers voters in this State pursuant to a voter registration drive shall not:

(a) Seek to influence an applicant's political preference or party registration; or

(b) Make any statement or take any action to discourage an applicant from registering to vote.

➥ A person who violates any of the provisions of this subsection is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. The Secretary of State shall impose the following fines for each violation:

(a) If an organizer of voter registration does not complete the training course offered by the Secretary of State pursuant to subsection 1, a fine of not more than $1,000.

(b) If an organizer of voter registration does not file with the Secretary of State the contact information for its registered agent required pursuant to paragraph (a) of subsection 2, a fine of not more than $1,000.

(c) If an organizer of voter registration employs a person in violation of paragraph (d) of subsection 2, a fine of not more than $5,000 per person who is employed by the organizer of voter registration in violation of that paragraph.

(d) If an organizer of voter registration does not submit a completed application to register to vote within the applicable period set forth in subsection 3, a fine of not more than $50 for each business day that the application is late.

6. If the Secretary of State has imposed a fine against an organizer of voter registration pursuant to paragraph (d) of subsection 5 three times or more, the Secretary of State may impose an additional fine of not more than $1,000.

7. The Secretary of State may adopt regulations necessary to administer the provisions of this section.

Sec. 1.7. **NRS 293.010 is hereby amended to read as follows:**

293.010 As used in this title, unless the context otherwise requires, the words and terms defined in NRS 293.013 to 293.121, inclusive, ***and sections 1.1 and 1.3 of this act*** have the meanings ascribed to them in those sections.

~~[Section 1.]~~ ***Sec. 1.9.*** NRS 293.1277 is hereby amended to read as follows:

293.1277 1. If the Secretary of State finds that the total number of signatures submitted to all the county clerks is 100 percent or more of the number of registered voters needed to declare the petition sufficient, he shall immediately so notify the county clerks. Within 9 days, excluding Saturdays, Sundays and holidays, after notification, each of the county clerks shall determine the number of registered voters who have signed the documents submitted in his county.

2. If more than 500 names have been signed on the documents submitted to him, a county clerk shall examine the signatures by sampling them at random for verification. The random sample of signatures to be verified must be drawn in such a manner that every signature which has been submitted to the county clerk is given an equal opportunity to be included in the sample. The sample must include an examination of at least 500 or 5 percent of the signatures, whichever is greater.

3. In determining from the records of registration the number of registered voters who signed the documents, the county clerk may use the signatures contained in the file of applications to register to vote. If the county clerk uses that file, he shall ensure that every application in the file is examined, including any application in his possession which may not yet be entered into his records. **[**The**]** ***Except as otherwise provided in this subsection, the*** county clerk shall rely only on the appearance of the signature and the address and date included with each signature ***in the file of applications to register to vote*** in making his determination. ***If the Secretary of State establishes pursuant to NRS 293.506 a system to allow persons to register electronically to vote in this State, the county clerk may rely on such other indicia as prescribed by the Secretary of State in making his determination.***

4. Except as otherwise provided in subsection 6, upon completing the examination, the county clerk shall immediately attach to the documents a certificate properly dated, showing the result of his examination and transmit the documents with the certificate to the Secretary of State. A copy of this certificate must be filed in the clerk's office. When the county clerk transmits the certificate to the Secretary of State, the county clerk shall notify the Secretary of State of the number of requests to remove a name received by the county clerk pursuant to NRS 295.055 or 306.015.

5. A person who submits a petition to the county clerk which is required to be verified pursuant to NRS 293.128, 293.165, 293.172, 293.200, 295.056, 298.109, 306.035 or 306.110 must be allowed to witness the verification of the signatures. A public officer who is the subject of a recall petition must also be allowed to witness the verification of the signatures on the petition.

6. For any petition containing signatures which are required to be verified pursuant to the provisions of NRS 293.165, 293.200, 306.035 or 306.110 for any county, district or municipal office within one county, the county clerk shall not transmit to the Secretary of State the documents containing the signatures of the registered voters.

7. The Secretary of State may by regulation establish further procedures for carrying out the provisions of this section.

Sec. 2. ~~**[**NRS 293.1715 is hereby amended to read as follows:~~

~~293.1715 1. The names of the candidates for partisan office of a minor political party must not appear on the ballot for a primary election.~~

~~2. The names of the candidates for partisan office of a minor political party must be placed on the ballot for the general election if the party has filed a certificate of existence and a list of its candidates for partisan office pursuant to the provisions of NRS 293.1725 with the Secretary of State and:~~

~~(a) At the last preceding general election, the minor political party polled for any of its candidates for partisan office a number of votes equal to or more than 1 percent of the total number of votes cast for the offices of Representative in Congress;~~

~~(b) On January 1 preceding a primary election, the minor political party has been designated as the political party on the applications to register to vote of at least 1 percent of the total number of registered voters in this State; or~~

~~(c) Not later than the second Friday in August preceding the general election, files a petition with the Secretary of State which is signed by a number of registered voters equal to at least 1 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.~~

~~3. The name of a candidate for partisan office for a minor political party other than a candidate for the office of President or Vice President of the United States must be placed on the ballot for the general election if the party has filed:~~

~~(a) A certificate of existence;~~

~~(b) A list of candidates for partisan office containing the name of the candidate pursuant to the provisions of NRS 293.1725 with the Secretary of State; and~~

~~(c) Not earlier than the first Monday in~~ **[**May preceding**]** ~~***January of the year in which*** the general election ***is to be held*** and not later than 5 p.m. on the second Friday after the first Monday in~~ **[**May,**]** ~~***January,*** a petition on behalf of the candidate with the Secretary of State containing not less than:~~

~~(1) Two hundred fifty signatures of registered voters if the candidate is to be nominated for a statewide office; or~~

~~(2) One hundred signatures of registered voters if the candidate is to be nominated for any office except a statewide office.~~

~~A minor political party that places names of one or more candidates for partisan office on the ballot pursuant to this subsection may also place the names of one or more candidates for partisan office on the ballot pursuant to subsection 2.~~

~~4. The name of only one candidate of each minor political party for each partisan office may appear on the ballot for a general election.~~

~~5. A minor political party must file a copy of the petition required by paragraph (c) of subsection 2 or paragraph (c) of subsection 3 with the Secretary of State before the petition may be circulated for signatures.~~**]** **(Deleted by amendment.)**

Sec. 3. ~~**[**NRS 293.1725 is hereby amended to read as follows:~~

~~293.1725 1. Except as otherwise provided in subsection 4, a minor political party that wishes to place its candidates for partisan office on the ballot for a general election and:~~

~~(a) Is entitled to do so pursuant to paragraph (a) or (b) of subsection 2 of NRS 293.1715;~~

~~(b) Files a petition pursuant to paragraph (c) of subsection 2 of NRS 293.1715; or~~

~~(c) Whose candidates are entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715,~~

~~". must file with the Secretary of State a list of its candidates for partisan office not earlier than the first Monday in~~ **[**~~May preceding~~**]** ~~***January of the year in which*** the election~~ **[**~~nor~~**]** ~~***is to be held or*** later than 5 p.m. on the second Friday after the first Monday in~~ **[**~~May.~~**]** ~~***January.*** The list must be signed by the person so authorized in the certificate of existence of the minor political party before a notary public or other person authorized to take acknowledgments. The Secretary of State shall strike from the list each candidate who is not entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715 if the minor political party is not entitled to place candidates on the ballot pursuant to subsection 2 of NRS 293.1715. The list may be amended not later than 5 p.m. on the second Friday after the first Monday in~~ **[**~~May.~~**]** ~~***January.***~~

~~2. The Secretary of State shall immediately forward a certified copy of the list of candidates for partisan office of each minor political party to the filing officer with whom each candidate must file his declaration of candidacy.~~

~~3. Each candidate on the list must file his declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the date on which the list of candidates for partisan office of his minor political party is filed with the Secretary of State~~ **[**~~nor~~**]** ~~***or*** later than 5 p.m. on the second Friday after the first Monday in~~ **[**~~May.~~**]** ~~***January.***~~

~~4. A minor political party that wishes to place candidates for the offices of President and Vice President of the United States on the ballot and has qualified to place the names of its candidates for partisan office on the ballot for the general election pursuant to subsection 2 of NRS 293.1715 must file with the Secretary of State a certificate of nomination for these offices not later than the first Tuesday in September.~~**]** **(Deleted by amendment.)**

Sec. 4. ~~**[**NRS 293.177 is hereby amended to read as follows:~~

~~293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy~~ **[**~~,~~**]** ~~and has paid the fee required by NRS 293.193 not earlier than~~ **[**~~:~~

~~(a) For a candidate for judicial office,~~**]** ~~the first Monday in January of the year in which the election is to be held~~ **[**~~nor~~**]** ~~***or*** later than 5 p.m. on the second Friday after the first Monday in January .~~ **[**~~; and~~

~~(b) For all other candidates, the first Monday in May of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in May.~~**]**

~~2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:~~

~~(a) For partisan office:~~

~~DECLARATION OF CANDIDACY OF .... FOR THE~~
~~OFFICE OF .....~~
~~State of Nevada~~
~~County of~~

~~For the purpose of having my name placed on the official ballot as a candidate for the ..... Party nomination for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ....., in the City or Town of ....., County of ....., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am registered as a member of the ..... Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since September 1 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the ..... Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.~~

~~(Designation of name)~~

~~(Signature of candidate for office)~~
~~Subscribed and sworn to before me~~
~~this ... day of the month of ... of the year ...~~

~~Notary Public or other person~~
~~authorized to administer an oath~~
~~(b) For nonpartisan office:~~
~~DECLARATION OF CANDIDACY OF .... FOR THE~~
~~OFFICE OF .....~~
~~State of Nevada~~
~~County of~~
~~For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside~~

~~at ……., in the City or Town of ……., County of ……., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ……, and the address at which I receive mail, if different than my residence, is ……; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.~~

~~(Designation of name)~~

~~(Signature of candidate for office)~~
~~Subscribed and sworn to before me~~
~~this … day of the month of … of the year …~~

~~Notary Public or other person~~
~~authorized to administer an oath~~

~~3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where he actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:~~

~~(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his residence; or~~

~~(b) The candidate does not present to the filing officer:~~

~~(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or~~

~~(2) A current utility bill, bank statement, paycheck~~ **[,]** ~~or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.~~

~~4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:~~

~~(a) May not be withheld from the public; and~~

~~(b) Must not contain the social security number or driver's license or identification card number of the candidate.~~

~~5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at his specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.~~

~~6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer:~~

~~(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether he has had his civil rights restored by a court of competent jurisdiction; and~~

~~(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.~~

~~7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.~~ **(Deleted by amendment.)**

Sec. 5. NRS 293.182 is hereby amended to read as follows:

293.182 1. After a person files a declaration of candidacy or an acceptance of candidacy to be a candidate for an office, and not later than ~~[5]~~ *[15]* ***10 calendar*** days after the last day the person may withdraw his candidacy pursuant to NRS 293.202, an elector may file with the filing officer for the office a written challenge of the person on the grounds that the person fails to meet any qualification required for the office pursuant to the

Constitution or a statute of this State, including, without limitation, a requirement concerning age or residency. Before accepting the challenge from the elector, the filing officer shall notify the elector that if the challenge is found by a court to be frivolous, the elector may be required to pay the reasonable attorney's fees and court costs of the challenged person.

2. A challenge filed pursuant to subsection 1 must:

(a) Indicate each qualification the person fails to meet;

(b) Have attached all documentation and evidence supporting the challenge; and

(c) Be in the form of an affidavit, signed by the elector under penalty of perjury.

3. Upon receipt of a challenge pursuant to subsection 1:

(a) The Secretary of State shall immediately transmit the challenge to the Attorney General.

(b) A filing officer other than the Secretary of State shall immediately transmit the challenge to the district attorney.

4. If the Attorney General or district attorney determines that probable cause exists to support the challenge, the Attorney General or district attorney shall, not later than 5 working days after receiving the challenge, petition a court of competent jurisdiction to order the person to appear before the court. Upon receipt of such a petition, the court shall enter an order directing the person to appear before the court at a hearing, at a time and place to be fixed by the court in the order, to show cause why the challenge is not valid. A certified copy of the order must be served upon the person. The court shall give priority to such proceedings over all other matters pending with the court, except for criminal proceedings.

5. If, at the hearing, the court determines by a preponderance of the evidence that the challenge is valid or that the person otherwise fails to meet any qualification required for the office pursuant to the Constitution or a statute of this State, or if the person fails to appear at the hearing:

(a) The name of the person must not appear on any ballot for the election for the office for which he filed the declaration of candidacy or acceptance of candidacy; and

(b) The person is disqualified from entering upon the duties of the office for which he filed the declaration of candidacy or acceptance of candidacy.

6. If, at the hearing, the court determines that the challenge is frivolous, the court may order the elector who filed the challenge to pay the reasonable attorney's fees and court costs of the challenged person.

Sec. 6. ~~[~~NRS 293.200 is hereby amended to read as follows:~~]~~

~~293.200 1. An independent candidate for partisan office must file with the appropriate filing officer:~~

~~(a) A copy of the petition of candidacy that he intends to subsequently circulate for signatures. The copy must be filed not [~~earlier than the January 2

~~preceding the date of the election and not~~ **]** ~~later than 25 working days before the last day to file the petition pursuant to subsection 4.~~

~~(b) Either of the following:~~

~~(1) A petition of candidacy signed by a number of registered voters equal to at least 1 percent of the total number of ballots cast in:~~

~~(I) This State for that office at the last preceding general election in which a person was elected to that office, if the office is a statewide office;~~

~~(II) The county for that office at the last preceding general election in which a person was elected to that office, if the office is a county office; or~~

~~(III) The district for that office at the last preceding general election in which a person was elected to that office, if the office is a district office.~~

~~(2) A petition of candidacy signed by 250 registered voters if the candidate is a candidate for statewide office~~ **[**~~,~~**]** ~~or signed by 100 registered voters if the candidate is a candidate for any office other than a statewide office.~~

~~2. The petition may consist of more than one document. Each document must bear the name of the county in which it was circulated, and only registered voters of that county may sign the document. If the office is not a statewide office, only the registered voters of the county, district or municipality in question may sign the document. The documents that are circulated for signature in a county must be submitted to that county clerk for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last day to file the petition pursuant to subsection 4. Each person who signs the petition shall add to his signature the address of the place at which he actually resides, the date that he signs the petition and the name of the county~~ **[**where**]** ~~***in which*** he is registered to vote. The person who circulates each document of the petition shall sign an affidavit attesting that the signatures on the document are genuine to the best of his knowledge and belief and were signed in his presence by persons registered to vote in that county.~~

~~3. The petition of candidacy may state the principle, if any, which the person qualified represents.~~

~~4. Petitions of candidacy must be filed not earlier than the first Monday in~~ **[**May**]** ~~***January*** preceding the general election and not later than 5 p.m. on the second Friday after the first Monday in~~ **[**May.**]** ~~***January.***~~

~~5. No petition of candidacy may contain the name of more than one candidate for each office to be filled.~~

~~6. A person may not file as an independent candidate if he is proposing to run as the candidate of a political party.~~

~~7. The names of independent candidates must be placed on the general election ballot and must not appear on the primary election ballot.~~

~~8. If the candidacy of any person seeking to qualify pursuant to this section is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in~~ **[**May.**]** ~~***January.***~~

~~Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in [May.] *January.*~~

~~9. Any challenge pursuant to subsection 8 must be filed with:~~

~~(a) The First Judicial District Court if the petition of candidacy was filed with the Secretary of State.~~

~~(b) The district court for the county [where] *in which* the petition of candidacy was filed if the petition was filed with a county clerk.~~

~~10. An independent candidate for partisan office must file a declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the first Monday in [May] *January* of the year in which the election is held [nor] *or* later than 5 p.m. on the second Friday after the first Monday in [May.] *January.]* (Deleted by amendment.)~~

Sec. 7. NRS 293.207 is hereby amended to read as follows:

293.207 1. Election precincts must be established on the basis of the number of registered voters therein, with a maximum of ~~[:~~

~~*(a) In a county whose population is 400,000 or more, 3,000 registered voters who are not designated inactive pursuant to NRS 293.530 per precinct in those precincts in which a mechanical voting system is used.*~~

~~*(b) In a county whose population is less than 400,000,* 1,500]~~ ***3,000*** registered voters who are not designated inactive pursuant to NRS 293.530 per precinct in those precincts in which a mechanical voting system is used.

2. Except as otherwise provided in subsections 3 and 4, the county clerk may consolidate two or more contiguous election precincts into a single voting district to conduct a particular election as public convenience, necessity and economy may require.

3. If a county clerk proposes to consolidate two or more contiguous election precincts, in whole or in part, pursuant to subsection 2, the county clerk shall, at least 14 days before consolidating the precincts, cause notice of the proposed consolidation to be:

(a) Posted in the manner prescribed for a regular meeting of the board of county commissioners; and

(b) Mailed to each Assemblyman, State Senator, county commissioner and, if applicable, member of the governing body of a city who represents residents of a precinct affected by the consolidation.

4. A person may file a written objection to the proposed consolidation with the county clerk. The county clerk shall consider each written objection filed pursuant to this subsection before consolidating the precincts.

Sec. 8. NRS 293.213 is hereby amended to read as follows:

293.213 1. Whenever there were not more than 20 voters registered in a precinct for the last preceding general election, the county clerk may ~~[, with the approval of the Secretary of State,]~~ establish that precinct as a mailing precinct.

2. Except as otherwise provided in NRS 293.208, the county clerk in any county ~~[where]~~ ***in which*** an absent ballot central counting board is appointed may ~~*[, with the approval of the Secretary of State,]*~~ abolish two or more

existing mailing precincts and combine those mailing precincts into absent ballot precincts. Those mailing precincts must be designated absent ballot mailing precincts.

3. In any county ~~[where]~~ ***in which*** an absent ballot central counting board is appointed, any established precinct which had less than 200 ballots cast at the last preceding general election, or any newly established precinct with less than 200 registered voters, may be designated an absent ballot mailing precinct.

4. ***If a county clerk wishes to establish a mailing precinct or an absent ballot mailing precinct that does not meet the requirements of subsection 1, 2 or 3, the county clerk must obtain approval from the Secretary of State before establishing the mailing precinct or absent ballot mailing precinct.***

5. The county clerk shall, at least 14 days before establishing or designating a precinct as a mailing precinct or absent ballot mailing precinct or before abolishing a mailing precinct pursuant to this section, cause notice of such action to be:

(a) Posted in the manner prescribed for a regular meeting of the board of county commissioners; and

(b) Mailed to each Assemblyman, State Senator, county commissioner and, if applicable, member of the governing body of a city who represents residents of a precinct affected by the action.

Sec. 9. NRS 293.250 is hereby amended to read as follows:

293.250 1. The Secretary of State shall, in a manner consistent with the election laws of this State, prescribe:

(a) The form of all ballots, absent ballots, diagrams, sample ballots, certificates, notices, declarations, applications to register to vote, lists, applications, registers, rosters, statements and abstracts required by the election laws of this State.

(b) The procedure to be followed ~~[when]~~ ***:***

(1) If the Secretary of State establishes pursuant to NRS 293.506 a system to allow persons to register electronically to vote in this State.

(2) When a computer is used to ~~[register voters and to]~~ keep records of registration.

2. The Secretary of State shall prescribe with respect to the matter to be printed on every kind of ballot:

(a) The placement and listing of all offices, candidates and measures upon which voting is statewide, which must be uniform throughout the State.

(b) The listing of all other candidates required to file with him, and the order of listing all offices, candidates and measures upon which voting is not statewide, from which each county or city clerk shall prepare appropriate ballot forms for use in any election in his county.

3. The Secretary of State shall place the condensation of each proposed constitutional amendment or statewide measure near the spaces or devices for indicating the voter's choice.

4. The fiscal note for, explanation of, arguments for and against ~~[,]~~ and rebuttals to such arguments of each proposed constitutional amendment or statewide measure must be included on all sample ballots.

5. The condensations and explanations for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Attorney General. The arguments and rebuttals for or against constitutional amendments and statewide measures proposed by initiative or referendum must be prepared in the manner set forth in NRS 293.252. The fiscal notes for constitutional amendments and statewide measures proposed by initiative or referendum must be prepared by the Secretary of State, upon consultation with the Fiscal Analysis Division of the Legislative Counsel Bureau. The condensations, explanations, arguments, rebuttals and fiscal notes must be in easily understood language and of reasonable length, and whenever feasible must be completed by August 1 of the year in which the general election is to be held.

6. The names of candidates for township and legislative or special district offices must be printed only on the ballots furnished to voters of that township or district.

7. A county clerk:

(a) May divide paper ballots into two sheets in a manner which provides a clear understanding and grouping of all measures and candidates.

(b) Shall prescribe the color or colors of the ballots and voting receipts used in any election which the clerk is required to conduct.

Sec. 10. NRS 293.2565 is hereby amended to read as follows:

293.2565 1. Except as otherwise provided in subsection 2, in any election regulated by this chapter, the name of a candidate printed on a ballot may be the given name and surname of the candidate or a contraction or familiar form of his given name followed by his surname. A nickname of not more than 10 letters may be incorporated into the name of a candidate. The nickname must be in quotation marks and appear immediately before the surname of the candidate. A nickname must not indicate any political, economic, social or religious view or affiliation and must not be the name of any person, living or dead, whose reputation is known on a statewide, nationwide or worldwide basis ~~[,]~~ or in any other manner deceive a voter regarding the person or principles for which he is voting.

2. ~~[Except as otherwise provided in subsection 3, in]~~ ***In*** any election regulated by this chapter, if two or more candidates have the same ***given name and*** surname ~~[or surnames so similar as to be likely to cause confusion]~~ and:

(a) None of the candidates is an incumbent, the middle names or middle initials, if any, of the candidates must be included in the names of the candidates ***;*** ~~[as printed on the ballot;]~~ or

(b) One of the candidates is an incumbent, the name of the incumbent must be listed first and ~~[must be printed in bold type.~~

~~3. Where a system of voting other than by paper ballot is used and the provisions of paragraph (b) of subsection 2 are applicable, the Secretary of State may distinguish a candidate who is an incumbent in a manner other than printing the name of the incumbent in bold type provided that the manner used clearly emphasizes the name of the incumbent in a manner similar to printing his name in bold type.~~**]** ***the word "Incumbent" must be written next to the name of the candidate who is the incumbent.***

Sec. 11. NRS 293.272 is hereby amended to read as follows:

293.272 1. Except as otherwise provided in subsection 2 and in NRS 293.2725 and 293.3083, a person who registered ***electronically or by mail*** to vote **[**~~pursuant to the provisions of NRS 293.5235~~**]** shall, for the first election in which he votes at which that registration is valid, vote in person unless he has previously voted in the county in which he is registered to vote.

2. The provisions of subsection 1 do not apply to a person who:

(a) Is entitled to vote in the manner prescribed in NRS 293.343 to 293.355, inclusive;

(b) Is entitled to vote an absent ballot pursuant to federal law or NRS 293.316 or 293.3165;

(c) Is disabled;

(d) Submits or has previously submitted a written request for an absent ballot that is signed by the registered voter before a notary public or other person authorized to administer an oath; or

(e) Requests an absent ballot in person at the office of the county clerk.

Sec. 12. NRS 293.2725 is hereby amended to read as follows:

293.2725 1. Except as otherwise provided in subsection 2, in NRS 293.3081 and 293.3083 and in federal law, a person who registers ***electronically or*** by mail to vote in this State and who has not previously voted in an election for federal office in this State:

(a) May vote at a polling place only if the person presents to the election board officer at the polling place:

(1) A current and valid photo identification of the person; or

(2) A copy of a current utility bill, bank statement, paycheck **[**~~,~~**]** or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517; and

(b) May vote by mail only if the person provides to the county or city clerk:

(1) A copy of a current and valid photo identification of the person; or

(2) A copy of a current utility bill, bank statement, paycheck **[**~~,~~**]** or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517.

2. The provisions of this section do not apply to a person who:

(a) Registers to vote by mail and submits with his application to register to vote:

(1) A copy of a current and valid photo identification; or

(2) A copy of a current utility bill, bank statement, paycheck ~~[,]~~ or document issued by a governmental entity, including a check which indicates the name and address of the person, but not including a voter registration card issued pursuant to NRS 293.517;

(b) Registers to vote by mail and submits with his application to register to vote a driver's license number or at least the last four digits of his social security number, if a state or local election official has matched that information with an existing identification record bearing the same number, name and date of birth as provided by the person in his application;

(c) Is entitled to vote an absent ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. §§ 1973ff et seq.;

(d) Is provided the right to vote otherwise than in person under the Voting Accessibility for the Elderly and Handicapped Act, 42 U.S.C. §§ 1973ee et seq.; or

(e) Is entitled to vote otherwise than in person under any other federal law.

Sec. 13. NRS 293.3025 is hereby amended to read as follows:

293.3025 The Secretary of State and each county and city clerk shall ensure that a copy of each of the following is posted in a conspicuous place at each polling place on election day:

1. A sample ballot;

2. Information concerning the date and hours of operation of the polling place;

3. Instructions for voting and casting a ballot, including a provisional ballot;

4. Instructions concerning the identification required for persons who registered by mail and are first-time voters for federal office in this State;

5. Information concerning the accessibility of polling places to persons with disabilities; ~~[and]~~

6. General information concerning federal and state laws which prohibit acts of fraud and misrepresentation ~~[.]~~ ***; and***

7. Information concerning the eligibility of a candidate, a ballot question or any other matter appearing on the ballot as a result of judicial determination or by operation of law, if any.

Sec. 14. NRS 293.3083 is hereby amended to read as follows:

293.3083 A person may cast a ballot by mail to vote for a candidate for federal office, which must be treated as a provisional ballot by the county or city clerk if the person:

1. Applies ***electronically or*** by mail to register to vote and has not previously voted in an election for federal office in this State;

2. Fails to provide the identification required pursuant to paragraph (b) of subsection 1 of NRS 293.2725 to the county or city clerk at the time that he mails his ballot; and

3. Completes the written affirmation set forth in subsection 1 of NRS 293.3082.

Sec. 15. NRS 293.343 is hereby amended to read as follows:

293.343 1. A registered voter who resides in an election precinct in which there were not more than 200 voters registered for the last preceding general election, or in a precinct in which it appears to the satisfaction of the county clerk ***and Secretary of State*** that there are not more than 200 registered voters, may vote at any election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

2. Whenever the county clerk ~~*[, with the approval of the Secretary of State,]*~~ has designated a precinct as a mailing precinct, registered voters residing in that precinct may vote at any election regulated by this chapter in the manner provided in NRS 293.345 to 293.355, inclusive.

3. In a county whose population is 100,000 or more, whenever a registered voter is entitled to vote in a mailing precinct or an absent ballot mailing precinct, the county clerk:

(a) Shall designate at least one polling place in the county as the polling place where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, on election day; and

(b) May designate certain polling places for early voting as the polling places where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, during the period for early voting, if it is impractical for the county clerk to provide at each polling place for early voting a ballot in every form required in the county.

4. In a county whose population is less than 100,000, whenever a registered voter is entitled to vote in a mailing precinct or an absent ballot mailing precinct, the county clerk:

(a) May designate one or more polling places in the county as the polling place where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, on election day; and

(b) May designate certain polling places for early voting as the polling places where such a voter may vote in person, pursuant to paragraph (b) of subsection 2 of NRS 293.353 or subsection 3 of NRS 293.353, during the period for early voting, if it is impractical for the county clerk to provide at each polling place for early voting a ballot in every form required in the county.

5. Polling places designated pursuant to subsection 3 or 4 may include, without limitation, polling places located as closely as practicable to the mailing precincts.

Sec. 16. NRS 293.443 is hereby amended to read as follows:

293.443 1. Except as otherwise provided in subsection 3, the expense of providing all ballots, forms and other supplies to be used at any election regulated by this chapter or chapter 293C of NRS and all expenses necessarily incurred in the preparation for, or the conduct of, any such

election is a charge upon the municipality, county, district or State, as the case may be.

2. The county or city clerk may submit the printing of ballots for competitive bidding.

3. If a political party or other entity requests more than 50 applications to register to vote by mail in any 12-month period, the clerk ***or the Secretary of State*** may assess a charge, not to exceed the cost of printing the applications.

Sec. 17. NRS 293.4687 is hereby amended to read as follows:

293.4687 1. The Secretary of State shall maintain a website on the Internet for public information maintained, collected or compiled by the Secretary of State that relates to elections, which must include, without limitation:

(a) The Voters' Bill of Rights required to be posted on his Internet website pursuant to the provisions of NRS 293.2549;

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293.388; and

(c) All reports on campaign contributions and expenditures submitted to the Secretary of State pursuant to the provisions of NRS 294A.120, 294A.125, 294A.140, ~~[294A.150,]~~ 294A.200, 294A.210, ~~[294A.220,]~~ 294A.270, 294A.280, ~~[294A.283,]~~ 294A.360 and 294A.362 and all reports on contributions received by and expenditures made from a legal defense fund submitted to the Secretary of State pursuant to NRS 294A.286.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by the Secretary of State pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by a county clerk or city clerk, the Secretary of State may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 17.2. **NRS 293.4695 is hereby amended to read as follows:**

293.4695 1. Each county clerk shall collect the following information regarding each primary and general election, on a form provided by the Secretary of State and made available at each polling place in the county, each polling place for early voting in the county, the office of the county clerk and any other location deemed appropriate by the Secretary of State:

(a) The number of ballots that have been discarded or for any reason not included in the final canvass of votes, along with an explanation for the exclusion of each such ballot from the final canvass of votes.

(b) A report on each malfunction of any mechanical voting system, including, without limitation:

(1) Any known reason for the malfunction;

(2) The length of time during which the mechanical voting system could not be used;

(3) Any remedy for the malfunction which was used at the time of the malfunction; and

(4) Any effect the malfunction had on the election process.

(c) A list of each polling place not open during the time prescribed pursuant to NRS 293.273 and an account explaining why each such polling place was not open during the time prescribed pursuant to NRS 293.273.

(d) A description of each challenge made to the eligibility of a voter pursuant to NRS 293.303 and the result of each such challenge.

(e) A description of each complaint regarding a ballot cast by mail or facsimile filed with the county clerk and the resolution, if any, of the complaint.

(f) The results of any audit of election procedures and practices conducted pursuant to regulations adopted by the Secretary of State pursuant to this chapter.

(g) The number of provisional ballots cast and the reason for the casting of each provisional ballot.

2. Each county clerk shall submit to the Secretary of State, on a form provided by the Secretary of State, the information collected pursuant to subsection 1 not more than 60 days after each primary and general election.

3. The Secretary of State may contact any political party and request information to assist in the investigation of any allegation of voter intimidation.

4. The Secretary of State shall establish and maintain an Internet website pursuant to which he shall solicit and collect voter comments regarding election processes.

5. The Secretary of State shall compile the information and comments collected pursuant to this section into a report that he shall submit to the Director of the Legislative Counsel Bureau for transmission to the Legislature ~~[not later than 30]~~ ***within 10*** days before ***or after*** the ~~[start]~~ ***first day*** of each regular session of the Legislature.

6. The Secretary of State may make the report required pursuant to subsection 5 available on an Internet website established and maintained by the Secretary of State.

Sec. 17.4. **NRS 293.504 is hereby amended to read as follows:**

293.504 1. The following offices shall serve as voter registration agencies:

(a) Such offices that provide public assistance as are designated by the Secretary of State;

(b) Each office that receives money from the State of Nevada to provide services to persons in this State who are disabled;

(c) The offices of the Department of Motor Vehicles;

(d) The offices of the city and county clerks;

(e) Such other county and municipal facilities as a county clerk or city clerk may designate pursuant to NRS 293.5035 or 293C.520, as applicable; ~~[and]~~

(f) ***Recruitment offices of the United States Armed Forces; and***

(g) Such other offices as the Secretary of State deems appropriate.

2. Each voter registration agency shall:

(a) Post in a conspicuous place, in at least 12-point type, instructions for registering to vote;

(b) ~~[Make]~~ ***Except as otherwise provided in subsection 3, distribute*** applications to register to vote which may be returned by mail ~~[available to each person who applies for or receives]~~ ***with each application for*** services or assistance from the agency ~~[,]~~ ***and with each application for recertification, renewal or a change of address related to such services or assistance.***

(c) Provide the same amount of assistance to an applicant in completing an application to register to vote as the agency provides to a person completing any other forms for the agency; and

(d) Accept completed applications to register to vote.

3. ***A voter registration agency is not required to provide an application to register to vote pursuant to paragraph (b) of subsection 2 to a person who applies for or receives services or assistance from the agency if the person declines to register to vote and submits to the agency a written form that meets the requirements of 42 U.S.C. § 1973gg-5(6). No information related to the declination to register to vote may be used for any purpose other than voter registration.***

4. Except as otherwise provided in this subsection and NRS 293.524, any application to register to vote accepted by a voter registration agency must be transmitted to the county clerk not later than 10 days after the application is accepted. The applications must be forwarded daily during the 2 weeks immediately preceding the fifth Sunday preceding an election. The county clerk shall accept any application to register to vote which is obtained from a voter registration agency pursuant to this section and completed by the fifth Sunday preceding an election if he receives the application not later than 5 days after that date.

~~[4.]~~ ***5.*** The Secretary of State shall cooperate with the Secretary of Defense to develop and carry out procedures to enable persons in this State to apply to register to vote at recruitment offices of the United States Armed Forces.

Sec. 18. NRS 293.5045 is hereby amended to read as follows:

293.5045 1. A person who works in a voter registration agency shall not:

(a) Seek to influence an applicant's political preference or party registration;

(b) Display a political preference or party allegiance in a place where it can be seen by an applicant;

(c) Make any statement or take any action to discourage an applicant from registering to vote; or

(d) Make any statement or take any action which would lead the applicant to believe that a decision to register to vote has any effect on the availability of any services or benefits provided by the State or Federal Government.

2. A person who violates any of the provisions of ~~[this section]~~ ***subsection 1*** is guilty of a category E felony and shall be punished as provided in NRS 193.130.

3. A voter registration agency shall not ~~*[, either]*~~ ***knowingly*** ~~*[or unknowingly,]*~~ ***employ a person whose duties will include the registration of voters if the person has been convicted of a felony involving theft, fraud or dishonesty. The Secretary of State may impose against a voter registration agency a fine of not more than $5,000 per person who is employed by the voter registration agency in violation of this subsection.***

Sec. 19. NRS 293.505 is hereby amended to read as follows:

293.505 1. All justices of the peace, except those located in county seats, are ex officio field registrars to carry out the provisions of this chapter.

2. The county clerk shall appoint at least one registered voter to serve as a field registrar of voters who, except as otherwise provided in NRS 293.5055, shall register voters within the county for which he is appointed. Except as otherwise provided in subsection 1, a candidate for any office may not be appointed or serve as a field registrar. A field registrar serves at the pleasure of the county clerk and shall perform his duties as the county clerk may direct. ***The county clerk shall not*** ~~*[, either]*~~ ***knowingly*** ~~*[or unknowingly,]*~~ ***appoint any person to be a field registrar who has been convicted of a felony involving theft, fraud or dishonesty.***

3. A field registrar shall demand of any person who applies for registration all information required by the application to register to vote and shall administer all oaths required by this chapter.

4. When a field registrar has in his possession five or more completed applications to register to vote, he shall forward them to the county clerk, but in no case may he hold any number of them for more than 10 days.

5. Each field registrar shall forward to the county clerk all completed applications in his possession immediately after the fifth Sunday preceding an election. Within 5 days after the fifth Sunday preceding any general election or general city election, a field registrar shall return all unused applications in his possession to the county clerk. If all of the unused applications are not returned to the county clerk, the field registrar shall account for the unreturned applications.

6. Each field registrar shall submit to the county clerk a list of the serial numbers of the completed applications to register to vote and the names of the electors on those applications. The serial numbers must be listed in numerical order.

7. Each field registrar shall post notices sent to him by the county clerk for posting in accordance with the election laws of this State.

8. A field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

(a) Delegate any of his duties to another person; or

(b) Refuse to register a person on account of that person's political party affiliation.

9. A person shall not hold himself out to be or attempt to exercise the duties of a field registrar unless he has been so appointed.

10. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

(a) Solicit a vote for or against a particular question or candidate;

(b) Speak to a voter on the subject of marking his ballot for or against a particular question or candidate; or

(c) Distribute any petition or other material concerning a candidate or question which will be on the ballot for the ensuing election,

➥ while he is registering an elector.

11. When the county clerk receives applications to register to vote from a field registrar, he shall issue a receipt to the field registrar. The receipt must include:

(a) The number of persons registered; and

(b) The political party of the persons registered.

12. A county clerk, field registrar, employee of a voter registration agency or person assisting a voter pursuant to subsection 13 of NRS 293.5235 shall not:

(a) Knowingly register a person who is not a qualified elector or a person who has filed a false or misleading application to register to vote; or

(b) Register a person who fails to provide satisfactory proof of identification and the address at which he actually resides.

13. A county clerk, field registrar, employee of a voter registration agency, person assisting a voter pursuant to subsection 13 of NRS 293.5235 or any other person providing a form for the application to register to vote to an elector for the purpose of registering to vote:

(a) If the person who assists an elector with completing the form for the application to register to vote retains the form, shall enter his name on the duplicate copy or receipt retained by the voter upon completion of the form; and

(b) Shall not alter, deface or destroy an application to register to vote that has been signed by an elector except to correct information contained in the application after receiving notice from the elector that a change in or addition to the information is required.

14. If a field registrar violates any of the provisions of this section, the county clerk shall immediately suspend the field registrar and notify the district attorney of the county in which the violation occurred.

15. A person who violates any of the provisions of subsection 8, 9, 10, 12 or 13 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 20. NRS 293.506 is hereby amended to read as follows:

293.506 ***1.*** A county clerk may, with approval of the board of county commissioners, establish a system for using a computer to ~~[register voters and to]~~ keep records of registration. ~~[The county clerk may, for that purpose, issue to a voter a card, bearing the signature of the voter, attesting to his registration.]~~

2. The Secretary of State may establish a system to allow persons to submit applications electronically to register to vote and adopt any regulations necessary to carry out the provisions of this subsection.

Sec. 21. NRS 293.510 is hereby amended to read as follows:

293.510 1. In counties ~~[where]~~ ***in which*** computers are not used to register voters, ~~[the]~~ ***a*** county clerk shall:

(a) Segregate original applications to register to vote according to the precinct in which the registered voters reside and arrange the applications in each precinct or district in alphabetical order. The applications for each precinct or district must be kept in a separate binder which is marked with the number of the precinct or district. This binder constitutes the election board register.

(b) Arrange the duplicate applications of registration in alphabetical order for the entire county and keep them in binders or a suitable file which constitutes the registrar of voters' register.

2. In any county ~~[where]~~ ***in which*** a computer is used to register voters, ~~[the]~~ ***a*** county clerk shall:

(a) Arrange the original applications to register to vote for the entire county in a manner in which an original application may be quickly located. These original applications constitute the registrar of voters' register.

(b) Segregate the applications to register to vote in a computer file according to the precinct or district in which the registered voters reside ~~[,]~~ and for each precinct or district **,** have printed a computer listing which contains the applications to register to vote in alphabetical order. These listings of applications to register to vote must be placed in separate binders which are marked with the number of the precinct or district. These binders constitute the election board registers.

Sec. 22. NRS 293.517 is hereby amended to read as follows:

293.517 1. Any elector residing within the county may register ~~[:]~~ ***to vote:***

(a) Except as otherwise provided in NRS 293.560 and 293C.527, by appearing before the county clerk, a field registrar**,** ~~[or]~~ a voter registration agency ~~[,]~~ ***or a person who registers voters pursuant to a voter registration drive,*** completing the application to register to vote, giving true and satisfactory answers to all questions relevant to his identity and right to vote ~~[,]~~ and providing proof of his residence and identity;

(b) By completing and mailing or personally delivering to the county clerk an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) Pursuant to the provisions of NRS 293.501 or 293.524; ~~[or]~~

(d) At his residence with the assistance of a field registrar pursuant to NRS 293.5237 ~~[.]~~ ***; or***

(e) By submitting an application electronically to register to vote, if the Secretary of State has established a system pursuant to NRS 293.506 to allow persons to submit applications electronically to register to vote.

➥ The county clerk shall require a person to submit official identification as proof of residence and identity, such as a driver's license or other official document, before registering him. If the applicant registers to vote pursuant to this subsection and fails to provide proof of his residence and identity, the applicant must provide proof of his residence and identity before casting a ballot in person or by mail or after casting a provisional ballot pursuant to NRS 293.3081 or 293.3083. For the purposes of this subsection, a voter registration card issued pursuant to subsection 6 does not provide proof of the residence or identity of a person.

2. The application to register to vote must be signed and verified under penalty of perjury by the elector registering.

3. Each elector who is or has been married must be registered under his own given or first name ~~[,]~~ and not under the given or first name or initials of his spouse.

4. An elector who is registered and changes his name must complete a new application to register to vote. He may obtain a new application:

(a) At the office of the county clerk or field registrar;

(b) By submitting an application to register to vote pursuant to the provisions of NRS 293.5235;

(c) By submitting a written statement to the county clerk requesting the county clerk to mail an application to register to vote; ~~[or]~~

(d) At any voter registration agency ~~[.]~~ ***; or***

(e) By submitting an application electronically to register to vote, if the Secretary of State has established a system pursuant to NRS 293.506 to allow persons to submit applications electronically to register to vote.

➥ If the elector fails to register under his new name, he may be challenged pursuant to the provisions of NRS 293.303 or 293C.292 and may be required to furnish proof of identity and subsequent change of name.

5. Except as otherwise provided in subsection 7, an elector who registers to vote pursuant to paragraph (a) of subsection 1 shall be deemed to be registered upon the completion of his application to register to vote.

6. After the county clerk determines that the application to register to vote of a person is complete and that the person is eligible to vote pursuant to NRS 293.485, he shall issue a voter registration card to the voter which contains:

(a) The name, address, political affiliation and precinct number of the voter;

(b) The date of issuance; and

(c) The signature of the county clerk.

7. If an elector submits an application to register to vote or an affidavit described in paragraph (c) of subsection 1 of NRS 293.507 that contains any handwritten additions, erasures or interlineations, the county clerk may object to the application to register to vote if he believes that because of such handwritten additions, erasures or interlineations, the application to register to vote of the elector is incomplete or that the elector is not eligible to vote pursuant to NRS 293.485. If the county clerk objects pursuant to this subsection, he shall immediately notify the elector and the district attorney of the county. Not later than 5 business days after the district attorney receives such notification, the district attorney shall advise the county clerk as to whether:

(a) The application to register to vote of the elector is complete and the elector is eligible to vote pursuant to NRS 293.485; and

(b) The county clerk should proceed to process the application to register to vote.

➥ If the district attorney advises the county clerk to process the application to register to vote, the county clerk shall immediately issue a voter registration card to the applicant pursuant to subsection 6.

Sec. 22.2. **NRS 293.5235 is hereby amended to read as follows:**

293.5235 1. Except as otherwise provided in NRS 293.502, a person may register to vote by mailing an application to register to vote to the county clerk of the county in which he resides. The county clerk shall, upon request, mail an application to register to vote to an applicant. The county clerk shall make the applications available at various public places in the county. An application to register to vote may be used to correct information in the registrar of voters' register.

2. An application to register to vote which is mailed to an applicant by the county clerk or made available to the public at various locations or voter registration agencies in the county may be returned to the county clerk by mail or in person. For the purposes of this section, an application which is personally delivered to the county clerk shall be deemed to have been returned by mail.

3. The applicant must complete the application, including, without limitation, checking the boxes described in paragraphs (b) and (c) of subsection 10 and signing the application.

4. The county clerk shall, upon receipt of an application, determine whether the application is complete.

5. If he determines that the application is complete, he shall, within 10 days after he receives the application, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

6. Except as otherwise provided in subsection 5 of NRS 293.518, if the county clerk determines that the application is not complete, he shall, as soon

as possible, mail a notice to the applicant informing him that additional information is required to complete the application. If the applicant provides the information requested by the county clerk within 15 days after the county clerk mails the notice, the county clerk shall, within 10 days after he receives the information, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

➥ If the applicant does not provide the additional information within the prescribed period, the application is void.

7. The applicant shall be deemed to be registered or to have corrected the information in the register **[**:

~~(a) If the application is received by the county clerk or postmarked not more than 3 working days after the applicant completed the application, on the date the applicant completed the application; or~~

~~(b) If the application is received by the county clerk or postmarked more than 3 working days after the applicant completed the application,~~**]** on the ***earlier of the*** date ***on which*** the application is ***postmarked or*** received by the county clerk.

8. If the applicant fails to check the box described in paragraph (b) of subsection 10, the application shall not be considered invalid and the county clerk shall provide a means for the applicant to correct the omission at the time the applicant appears to vote in person at his assigned polling place.

9. The Secretary of State shall prescribe the form for an application to register to vote by mail which must be used to register to vote by mail in this State.

10. The application to register to vote by mail must include:

(a) A notice in at least 10-point type which states:

NOTICE: You are urged to return your application to register to vote to the County Clerk in person or by mail. If you choose to give your completed application to another person to return to the County Clerk on your behalf, and the person fails to deliver the application to the County Clerk, you will not be registered to vote. Please retain the duplicate copy or receipt from your application to register to vote.

(b) The question, "Are you a citizen of the United States?" and boxes for the applicant to check to indicate whether or not the applicant is a citizen of the United States.

(c) The question, "Will you be at least 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be at least 18 years of age or older on election day.

(d) A statement instructing the applicant not to complete the application if the applicant checked "no" in response to the question set forth in paragraph (b) or (c).

(e) A statement informing the applicant that if the application is submitted by mail and the applicant is registering to vote for the first time, the applicant must submit the information set forth in paragraph (a) of subsection 2 of NRS 293.2725 to avoid the requirements of subsection 1 of NRS 293.2725 upon voting for the first time.

11. Except as otherwise provided in subsection 5 of NRS 293.518, the county clerk shall not register a person to vote pursuant to this section unless that person has provided all of the information required by the application.

12. The county clerk shall mail, by postcard, the notices required pursuant to subsections 5 and 6. If the postcard is returned to the county clerk by the United States Postal Service because the address is fictitious or the person does not live at that address, the county clerk shall attempt to determine whether the person's current residence is other than that indicated on his application to register to vote in the manner set forth in NRS 293.530.

13. A person who, by mail, registers to vote pursuant to this section may be assisted in completing the application to register to vote by any other person. The application must include the mailing address and signature of the person who assisted the applicant. The failure to provide the information required by this subsection will not result in the application being deemed incomplete.

14. An application to register to vote must be made available to all persons, regardless of political party affiliation.

15. An application must not be altered or otherwise defaced after the applicant has completed and signed it. An application must be mailed or delivered in person to the office of the county clerk within 10 days after it is completed.

16. A person who willfully violates any of the provisions of subsection 13, 14 or 15 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

17. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 23. NRS 293.567 is hereby amended to read as follows:

293.567 After the close of registration for each primary election but not later than the ~~[second Friday next]~~ ***Friday*** preceding the primary election and after the close of registration for each general election but not later than the ~~[second Friday next]~~ ***Friday*** preceding the general election, the county clerk shall ascertain by precinct and district the number of registered voters in the county and their political affiliation, if any, and shall transmit that information to the Secretary of State.

Sec. 24. NRS 293.710 is hereby amended to read as follows:

293.710 1. It is unlawful for any person, in connection with any election or petition ~~[,]~~ ***or the registration of voters,*** whether acting himself or through another person in his behalf, to:

(a) Use or threaten to use any force, ***intimidation,*** coercion, violence, restraint or undue influence;

(b) Inflict or threaten to inflict any physical or mental injury, damage, harm or loss upon the person or property of another;

(c) Expose or publish or threaten to expose or publish any fact concerning another in order to induce or compel such other to vote or refrain from voting for any candidate or any question;

(d) Impede or prevent, by abduction, duress or fraudulent contrivance, the free exercise of the franchise by any voter, or thereby to compel, induce or prevail upon any elector to give or refrain from giving his vote; or

(e) Discharge or change the place of employment of any employee with the intent to impede or prevent the free exercise of the franchise by such employee.

2. ~~[Unless a greater penalty is provided by law, any violation]~~ ***A person who violates a provision*** of this section is ~~[a gross misdemeanor.]~~ ***guilty of a category E felony and shall be punished as provided in NRS 193.130.***

Sec. 25. NRS 293.730 is hereby amended to read as follows:

293.730 1. A person shall not:

(a) Remain in or outside of any polling place so as to interfere with the conduct of the election.

(b) Except an election board officer, receive from any voter a ballot prepared by the voter.

(c) Remove a ballot from any polling place before the closing of the polls.

(d) Apply for or receive a ballot at any election precinct or district other than the one at which he is entitled to vote.

(e) Show his ballot to any person, after voting, so as to reveal any of the names voted for.

(f) Inside a polling place, ask another person for whom he intends to vote.

(g) Except an election board officer, deliver a ballot to a voter.

(h) Except an election board officer in the course of his official duties, inside a polling place, ask another person his name, address or political affiliation.

2. A voter shall not:

(a) Receive a ballot from any person other than an election board officer.

(b) Deliver to an election board or to any member thereof any ballot other than the one received.

(c) Place any mark upon his ballot by which it may afterward be identified as the one voted by him.

3. Any person who violates any provision of this section is guilty of a ~~[gross misdemeanor.]~~ ***category C felony and shall be punished as provided in NRS 193.130.***

Sec. 25.2. **NRS 293.740 is hereby amended to read as follows:**

293.740 1. Except as otherwise provided in subsection 2, it is unlawful inside a polling place or within 100 feet from the entrance to the building or other structure in which a polling place is located:

(a) For any person to solicit a vote or speak to a voter on the subject of marking his ballot.

(b) For any person, including an election board officer, to do any electioneering on election day.

➥ The county clerk or registrar of voters shall ensure that, at the outer limits of the area within which electioneering is prohibited, notices are continuously posted on which are printed in large letters "Distance Marker: No electioneering between this point and the entrance to the polling place."

2. The provisions of subsection 1 do not apply to the conduct of a person in a private residence or on commercial or residential property that is within 100 feet from the entrance to a building or other structure in which a polling place is located. The provisions of subsection 1 are not intended to prohibit a person from voting solely because he is wearing a prohibited political insigne and is reasonably unable to remove the insigne or cover it. In such a case, the election board officer shall take such action as is necessary to allow the voter to vote as expediently as possible and then assist the voter in exiting the polling place as soon as is possible.

3. Any person who violates any provision of this section is guilty of a gross misdemeanor.

4. As used in this section, "electioneering" means campaigning for or against a candidate, ballot question or political party by:

(a) Posting signs relating to the support of or opposition to a candidate, ballot question or political party;

(b) Distributing literature relating to the support of or opposition to a candidate, ballot question or political party;

(c) Using loudspeakers to broadcast information relating to the support of or opposition to a candidate, ballot question or political party;

(d) Buying, selling, wearing or displaying any badge, button or other insigne which is designed or tends to aid or promote the success or defeat of any political party or a candidate or ballot question to be voted upon at that election; ***or***

(e) ~~[Polling or otherwise soliciting from a voter information as to whether the voter intends to vote or has voted for or against a particular political party, candidate or ballot question; or~~

~~(f)]~~ Soliciting signatures to any kind of petition.

Sec. 26. NRS 293.750 is hereby amended to read as follows:

293.750 Any person who, during an election, removes or destroys any of the supplies or equipment placed in the booths or compartments ~~[,]~~ or removes or defaces the cards of instruction posted as prescribed by this chapter, is guilty of a ~~[gross misdemeanor.]~~ ***category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years.***

Sec. 27. NRS 293.755 is hereby amended to read as follows:

293.755 1. A person who tampers or interferes with, or attempts to tamper or interfere with **,** a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent to prevent the proper operation of that device, system or program is guilty of a

category ~~[D]~~ ***B*** felony and shall be punished ~~[as provided in NRS 193.130.]~~ ***by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 10 years.***

2. ***A person who tampers or interferes with, or attempts to tamper or interfere with, a mechanical voting system, mechanical voting device or any computer program used to count ballots with the intent to influence the outcome of an election is guilty of a category A felony and shall be punished by imprisonment in the state prison for a definite term of 40 years, with eligibility for parole beginning when a minimum of 15 years has been served.***

3. The county or city clerk shall report any alleged violation of this section to the district attorney who shall cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

Sec. 28. NRS 293.800 is hereby amended to read as follows:

293.800 1. A person who, for himself or another person, willfully gives a false answer or answers to questions propounded to him by the registrar or field registrar of voters relating to the information called for by the application to register to vote, or who willfully falsifies his application in any particular, or who violates any of the provisions of the election laws of this State ~~[,]~~ or knowingly encourages another person to violate those laws is guilty of a category E felony and shall be punished as provided in NRS 193.130.

2. A public officer or other person, upon whom any duty is imposed by this title, who willfully neglects his duty ~~[,]~~ or willfully performs it in such a way as to hinder the objects and purposes of the election laws of this State, except where another penalty is provided, is guilty of a category E felony and shall be punished as provided in NRS 193.130.

3. If the person is a public officer, his office is forfeited upon conviction of any offense provided for in subsection 2.

4. A person who causes or endeavors to cause his name to be registered, knowing that he is not an elector or will not be an elector on or before the day of the next ensuing election in the precinct or district in which he causes or endeavors to cause the registration to be made, and any other person who induces, aids or abets the person in the commission of either of the acts is guilty of a category E felony and shall be punished as provided in NRS 193.130.

5. A field registrar or other person who ~~[:]~~ ***provides to an elector an application to register to vote and:***

(a) Knowingly falsifies an application ~~[to register to vote]~~ or knowingly causes an application to be falsified; ~~[or]~~

(b) Knowingly provides money or other compensation to another for a falsified application ~~[to register to vote,]~~ ***; or***

(c) Intentionally fails to submit to the county clerk a completed application on account of the elector's political party affiliation,

➥ is guilty of a category ~~[E]~~ ***C*** felony and shall be punished as provided in NRS 193.130.

Sec. 29. NRS 293C.715 is hereby amended to read as follows:

293C.715 1. If a city clerk maintains a website on the Internet for information relating to ***candidates and*** elections, the website must contain public information maintained, collected or compiled by the city clerk that relates to elections, which must include, without limitation:

(a) The locations of polling places for casting a ballot on election day in such a form that a registered voter may search the list to determine the location of the polling place at which the registered voter is required to cast a ballot; ~~[and]~~

(b) The abstract of votes required to be posted on a website pursuant to the provisions of NRS 293C.387 ~~[.]~~ ***; and***

(c) The reports that the city clerk receives pursuant to chapter 294A of NRS from candidates for city office.

2. The abstract of votes required to be maintained on the website pursuant to paragraph (b) of subsection 1 must be maintained in such a format as to permit the searching of the abstract of votes for specific information.

3. If the information required to be maintained by a city clerk pursuant to subsection 1 may be obtained by the public from a website on the Internet maintained by the Secretary of State, a county clerk or another city clerk, the city clerk may provide a hyperlink to that website to comply with the provisions of subsection 1 with regard to that information.

Sec. 29.2. **Chapter 294A of NRS is hereby amended by adding thereto the provisions set forth as sections 29.3 and 29.5 of this act.**

Sec. 29.3. ***1. Every person who is not under the direction or control of a candidate for office at a primary election, primary city election, general election or general city election, of a group of such candidates, or of any person involved in the campaign of that candidate or group and who intends to make an expenditure in excess of $100 on behalf of the candidate or group which is not solicited or approved by the candidate or group shall register with the Secretary of State before making any such expenditure.***

2. The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.

Sec. 29.5. ***1. A candidate, person, committee, political party, group or business entity that is required to file a report described in subsection 1 of NRS 294A.373 is not required to file the report electronically if the candidate, person, committee, political party, group or business entity:***

(a) Did not receive or expend money in excess of $10,000; and

(b) Submits to the Secretary of State an affidavit stating that:

(1) The candidate, person, committee, political party, group or business entity does not own or have the ability to access the technology

necessary to file electronically the report described in subsection 1 of NRS 294A.373; and

(2) The candidate, person, committee, political party, group or business entity does not have the financial ability to purchase or acquire access to the technology necessary to file electronically the report described in subsection 1 of NRS 294A.373.

2. Each affidavit submitted pursuant to subsection 1 must be in the form prescribed by the Secretary of State and signed under penalty of perjury.

Sec. 30. NRS 294A.0055 is hereby amended to read as follows:

294A.0055 1. "Committee for political action" means any ***individual natural person or*** group of natural persons or entities that solicits or receives contributions from any other person, group or entity and:

(a) Makes or intends to make contributions to candidates or other persons; or

(b) Makes or intends to make expenditures,

➥ designed to affect the outcome of any primary, general or special election or question on the ballot.

2. "Committee for political action" does ~~[:~~

~~*[(a) Includes, without limitation, a person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot.*~~

~~*(b) Does]*~~ not include:

(a) ~~*[(1)]*~~ An organization made up of legislative members of a political party whose primary purpose is to provide support for their political efforts.

(b) ~~*[(2)]*~~ An entity solely because it provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public.

(c) ~~[An individual natural person.~~

~~(d)]~~ ~~*[(3)]*~~ An individual corporation or other business organization who has filed articles of incorporation or other documentation of organization with the Secretary of State pursuant to title 7 of NRS.

~~[(e)]~~ ~~*[(4)]*~~ ***(d)*** A labor union.

~~[(f)]~~ ~~*[(5)]*~~ ***(e)*** A personal campaign committee or the personal representative of a candidate who receives contributions or makes expenditures that are reported as campaign contributions or expenditures by the candidate.

~~[(g)]~~ ~~*[(6)]*~~ ***(f)*** A committee for the recall of a public officer.

Sec. 31. NRS 294A.007 is hereby amended to read as follows:

294A.007 1. "Contribution" means a gift, loan, conveyance, deposit, payment, transfer or distribution of money or of anything of value other than the services of a volunteer, and includes:

(a) The payment by any person, other than a candidate, of compensation for the personal services of another person which are rendered to a:

(1) Candidate;

(2) Person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group; ***or***

(3) Committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of a candidate or group of candidates **, [**~~, or~~

~~(4) Person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a question or group of questions on the ballot,~~**]**

➥ without charge to the candidate, person, committee or political party.

(b) The value of services provided in kind for which money would have otherwise been paid, such as paid polling and resulting data, paid direct mail, paid solicitation by telephone, any paid paraphernalia that was printed or otherwise produced to promote a campaign and the use of paid personnel to assist in a campaign.

2. As used in this section, "volunteer" means a person who does not receive compensation of any kind, directly or indirectly, for the services he provides to a campaign.

Sec. 32. NRS 294A.100 is hereby amended to read as follows:

294A.100 1. A person shall not make ***or commit to make*** a contribution or contributions to a candidate for any office, except a federal office, in an amount which exceeds $5,000 for the primary election or primary city election, regardless of the number of candidates for the office, and $5,000 for the general election or general city election, regardless of the number of candidates for the office **. [**~~, during the period:~~

~~(a) Beginning from 30 days before the regular session of the Legislature immediately following the last election for the office and ending 30 days before the regular session of the Legislature immediately following the next election for the office, if that office is a state, district, county or township office; or~~

~~(b) Beginning from 30 days after the last election for the office and ending 30 days before the next general city election for the office, if that office is a city office.~~**]**

2. A candidate shall not accept a contribution ***or commitment to make a contribution*** made in violation of subsection 1.

3. A person who willfully violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 32.2. **NRS 294A.120 is hereby amended to read as follows:**

294A.120 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of $100 he received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The provisions of this

subsection apply to the candidate beginning the year of the general election for that office through the year immediately preceding the next general election for that office.

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election;

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election; and

(c) July 15 of the year of the general election for that office, for the period from 11 days before the general election through June 30 of that year,

➥ report each campaign contribution in excess of $100 he receives during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election; and

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election,

➥ report each campaign contribution in excess of $100 he received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each campaign contribution in excess of $100 he received during the period and contributions received during the reporting period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to

NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall list each of the campaign contributions that he receives on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) A district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign contributions must be ~~[:]~~ ***:***

(a) If the candidate is a candidate for city office, filed with the ~~[officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A]~~ ***city clerk. The*** candidate may mail or transmit the report to ~~[that officer]~~ ***the city clerk*** by regular mail, certified mail, facsimile machine or electronic means.

(b) Except as otherwise provided in section 29.5 of this act, if the candidate is a candidate for state, district or county office, filed electronically with the Secretary of State.

7. A report shall be deemed to be filed ~~[with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~7. Every county clerk who receives from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign contributions pursuant to this section shall file a copy of each report with the Secretary of State within 10 working days after he receives the report.]~~ ***Secretary of State or city clerk, as the case may be.***

8. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of $100 and contributions which a contributor has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 32.3. **NRS 294A.125 is hereby amended to read as follows:**

294A.125 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives contributions in any year before the year in which the general election or general city election in which the candidate intends to seek election to public office is held shall, for:

(a) The year in which he receives contributions in excess of $10,000, list each of the contributions that he receives and the expenditures in excess of $100 made in that year.

(b) Each year after the year in which he received contributions in excess of $10,000, until the year of the general election or general city election in which the candidate intends to seek election to public office is held, list each of the contributions that he received and the expenditures in excess of $100 made in that year.

2. The reports required by subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the list for each contribution in excess of $100 and contributions that a contributor has made cumulatively in excess of that amount.

4. The report must be ***:*** ~~[filed:]~~

(a) ~~[With the officer with whom the candidate will file the declaration of candidacy or acceptance of candidacy for the public office the candidate intends to seek. A]~~ ***If the candidate is a candidate for city office, filed with the city clerk. The*** candidate may mail or transmit the report to ~~[that officer]~~ ***the city clerk*** by regular mail, certified mail, facsimile machine or electronic means.

(b) Except as otherwise provided in section 29.5 of this act, if the candidate is a candidate for state, district or county office, filed electronically with the Secretary of State.

5. A report shall be deemed to be filed ~~[with the officer:~~

~~(1) On the date it was mailed if it was sent by certified mail.~~

~~(2) On]~~ ***on*** the date it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~(b) On or before January 15 of the year immediately after the year for which the report is made.~~

~~5. A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report of contributions and expenditures pursuant to subsection 4 shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.]~~ ***Secretary of State or city clerk, as the case may be.***

Sec. 32.4. **NRS 294A.128 is hereby amended to read as follows:**

294A.128 1. In addition to complying with the requirements set forth in NRS 294A.120, 294A.200 and 294A.360, a candidate who receives a loan which is guaranteed by a third party, forgiveness of a loan previously made to the candidate or a written commitment for a contribution shall, for the period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report:

(a) If a loan received by the candidate was guaranteed by a third party, the amount of the loan and the name and address of each person who guaranteed the loan;

(b) If a loan received by the candidate was forgiven by the person who made the loan, the amount that was forgiven and the name and address of the person who forgave the loan; and

(c) If the candidate received a written commitment for a contribution, the amount committed to be contributed and the name and address of the person who made the written commitment.

2. The reports required by subsection 1 must be submitted on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. The reports required by subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.

~~[4. A county clerk who receives from a candidate for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, a report pursuant to subsection 1 shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.]~~

Sec. 32.5. **NRS 294A.140 is hereby amended to read as follows:**

294A.140 1. Every person who is not under the direction or control of a candidate for office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party, committee sponsored by a political party and business entity which makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee, political party or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each campaign contribution in excess of $100 he or it received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The provisions of this subsection apply to the person, committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

2. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of the candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a

candidate in the group of candidates seeks election is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election for that office, for the period from 11 days before the general election or general city election through June 30 of that year,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

3. The name and address of the contributor and the date on which the contribution was received must be included on the report for each contribution in excess of $100 and contributions which a contributor has made cumulatively in excess of $100 since the beginning of the current reporting period.

4. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

5. Except as otherwise provided in subsection 6, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each campaign contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

6. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of candidates for offices at such special elections shall report each contribution in excess of $100 received during the period and contributions received during the period from a contributor which cumulatively exceed $100. The report must be completed on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee, political party or business entity under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

7. The reports of contributions required pursuant to this section must be ***:*** ~~[filed with:]~~

(a) ~~[If the candidate is elected from one county, the county clerk of that county;~~

~~(b)]~~ If the candidate is ~~[elected from one city,]~~ ***a candidate for city office, filed with*** the city clerk ***.*** ~~[of that city ; or~~

~~(c) If]~~ ***A person, committee, political party or business entity may file the report with the city clerk by regular mail, certified mail, facsimile machine or electronic means.***

(b) Except as otherwise provided in section 29.5 of this act, if the candidate is ~~[elected from more than one county or city,]~~ ***a candidate for state, district or county office, filed electronically with*** the Secretary of State.

8. ~~[A person or entity may file the report with the appropriate officer by regular mail, certified mail, facsimile machine or electronic means.]~~ A report shall be deemed to be filed ~~[with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.~~

~~10.]~~ ***Secretary of State or city clerk, as the case may be.***

9. Every person, committee, political party or business entity described in subsection 1 shall file a report required by this section even if he or it receives no contributions.

Sec. 33. NRS 294A.200 is hereby amended to read as follows:

294A.200 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each of the campaign expenses in excess of $100 that he incurs and each amount in excess of $100 that he disposes of pursuant to NRS 294A.160 ***or subsection 4 of NRS 294A.286*** during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general election for that office through the year immediately preceding the next general election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 ~~[.]~~ ***or 294A.286.***

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election;

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election; and

(c) July 15 of the year of the general election for that office, for the period from 11 days before the general election through June 30 of that year,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election; and

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall report each of the campaign expenses in excess of $100 that he incurs on the form designed and provided by the Secretary of State pursuant NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign expenses must be filed with the officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy. A candidate may mail or transmit the report to that officer by regular mail, certified mail, facsimile machine or electronic means. A report shall be deemed to be filed with the officer:

(a) On the date that it was mailed if it was sent by certified mail; or

(b) On the date that it was received by the officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means ~~[,]~~ or delivered personally.

7. County clerks who receive from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign expenses pursuant to this section shall file a copy of each report with the Secretary of State within 10 working days after ~~[he receives]~~ receipt of the report.

Sec. 33.1. **NRS 294A.200 is hereby amended to read as follows:**

294A.200 1. Every candidate for state, district, county or township office at a primary or general election shall, not later than January 15 of each year, for the period from January 1 of the previous year through December 31 of the previous year, report each of the campaign expenses in excess of $100 that he incurs and each amount in excess of $100 that he disposes of pursuant to NRS 294A.160 or subsection 4 of NRS 294A.286 during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general election for that office through the year immediately preceding the next general election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 or 294A.286.

2. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election;

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election; and

(c) July 15 of the year of the general election for that office, for the period from 11 days before the general election through June 30 of that year,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

3. Every candidate for state, district, county or township office at a primary or general election shall, if the general election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election for that office, for the period from the January 1 immediately preceding the primary election through 12 days before the primary election; and

(b) Seven days before the general election for that office, for the period from 11 days before the primary election through 12 days before the general election,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the candidate under penalty of perjury.

4. Except as otherwise provided in subsection 5, every candidate for a district office at a special election shall, not later than:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each of the campaign expenses in excess of $100 that he incurs during the period on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. Each form must be signed by the candidate under penalty of perjury.

5. Every candidate for state, district, county, municipal or township office at a special election to determine whether a public officer will be recalled shall report each of the campaign expenses in excess of $100 that he incurs on the form designed and provided by the Secretary of State pursuant NRS 294A.373 and signed by the candidate under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Reports of campaign expenses must be ***:***

(a) If the candidate is a candidate for city office, filed with the ~~[officer with whom the candidate filed the declaration of candidacy or acceptance of candidacy.]~~ ***city clerk.*** A candidate may mail or transmit the report to ~~[that officer]~~ ***the city clerk*** by regular mail, certified mail, facsimile machine or electronic means.

(b) Except as otherwise provided in section 29.5 of this act, if the candidate is a candidate for state, county or district office, filed electronically with the Secretary of State.

7. A report shall be deemed to be filed ~~[with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means or delivered personally.~~

~~7. County clerks who receive from candidates for legislative or judicial office, including, without limitation, the office of justice of the peace or municipal judge, reports of campaign expenses pursuant to this section shall file a copy of each report with the]~~ Secretary of State ~~[within 10 working days after receipt of the report.]~~ ***or city clerk, as the case may be.***

Sec. 33.2. **NRS 294A.210 is hereby amended to read as follows:**

294A.210 1. Every person who is not under the direction or control of a candidate for an office at a primary election, primary city election, general election or general city election, of a group of such candidates or of any person involved in the campaign of that candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group, and every committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of such a candidate or group of candidates shall, not later than January 15 of each year that the provisions of this subsection apply to the person, committee, political party or business entity, for the period from January 1 of the previous year through December 31 of the previous year, report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury. The provisions of this subsection apply to the person, committee, political party or business entity beginning the year of the general election or general city election for that office through the year immediately preceding the next general election or general city election for that office.

2. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after January 1 and before the July 1 immediately following that January 1, not later than:

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election;

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election; and

(c) July 15 of the year of the general election or general city election for that office, for the period from 11 days before the general election or general city election through the June 30 of that year,

➥ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

3. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a primary election, primary city election, general election or general city election or on behalf of a group of such candidates shall, if the general election or general city election for the office for which the candidate or a candidate in the group of candidates seeks election is held on or after July 1 and before the January 1 immediately following that July 1, not later than:

(a) Seven days before the primary election or primary city election for that office, for the period from the January 1 immediately preceding the primary election or primary city election through 12 days before the primary election or primary city election; and

(b) Seven days before the general election or general city election for that office, for the period from 11 days before the primary election or primary city election through 12 days before the general election or general city election,

➥ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

4. Except as otherwise provided in subsection 5, every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election or on behalf of a group of such candidates shall, not later than:

(a) Seven days before the special election for the office for which the candidate or a candidate in the group of candidates seeks election, for the period from the nomination of the candidate through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election,

➥ report each expenditure made during the period on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by the person or a representative of the committee, political party or business entity under penalty of perjury.

5. Every person, committee, political party or business entity described in subsection 1 which makes an expenditure on behalf of a candidate for office at a special election to determine whether a public officer will be recalled or on behalf of a group of such candidates shall list each expenditure made on behalf of the candidate, the group of candidates or a candidate in the group of candidates in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 and signed by the person or a representative of the committee, political party or business entity under penalty of perjury, 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

6. Expenditures made within the State or made elsewhere but for use within the State, including expenditures made outside the State for printing, television and radio broadcasting or other production of the media, must be included in the report.

7. The reports must be filed with:

(a) ~~[If the candidate is elected from one county, the county clerk of that county;~~

~~(b)]~~ If the candidate is ~~[elected from one city,]~~ ***a candidate for city office,*** the city clerk of that city; or

~~[(c)]~~ ***(b)*** If the candidate is ~~[elected from more than one county or city,]~~ ***a candidate for state, district or county office,*** the Secretary of State.

8. If an expenditure is made on behalf of a group of candidates, the reports must be itemized by the candidate. ~~[A person may mail or transmit his report to the appropriate officer by regular mail, certified mail, facsimile machine or electronic means.]~~

9. A report shall be deemed to be filed ~~[with the officer:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the ~~[officer if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~9. Each county clerk or city clerk who receives a report pursuant to this section shall file a copy of the report with the Secretary of State within 10 working days after he receives the report.]~~ ***Secretary of State or city clerk, as the case may be.***

10. Every person, committee, political party or business entity described in subsection 1 shall file a report required by this section even if he or it receives no contributions.

Sec. 34. NRS 294A.230 is hereby amended to read as follows:

294A.230 1. Each committee for political action shall, before it engages in any activity in this State, register with the Secretary of State on forms supplied by him.

2. The form must require:

(a) The name of the committee;

(b) The purpose for which it was organized;

(c) The names, addresses and telephone numbers of its officers;

(d) If the committee for political action is affiliated with any other organizations, the name, address and telephone number of each organization;

(e) The name, address and telephone number of its registered agent; and

(f) Any other information deemed necessary by the Secretary of State.

3. A committee for political action shall file with the Secretary of State ~~[an]~~ ***:***

(a) An amended form for registration within 30 days after any change in the information contained in the form for registration.

(b) A form for registration ~~*[at least every 180 days]*~~ ***on or before January 15 of each year, regardless of whether there is a change in the information contained in the most recent form for registration filed by the committee for political action with the Secretary of State.***

4. The Secretary of State shall include on his Internet website the information required pursuant to subsection 2.

Sec. 34.2. **NRS 294A.270 is hereby amended to read as follows:**

294A.270 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall through 12 days before the special election; and

(b) Thirty days after the election, for the remaining period through the election,

➥ report each contribution received or made by the committee in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by a representative of the committee under penalty of perjury.

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each contribution received by the committee, and each contribution made by the committee in excess of $100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall through the day the court determines that an election will not be held, report each contribution received by the committee, and each contribution made by the committee in excess of $100.

4. ~~[Each]~~ ***Except as otherwise provided in section 29.5 of this act, each*** report of contributions must be filed ***electronically*** with the Secretary of State. ~~[The committee may mail or transmit the report by regular mail, certified mail, facsimile machine or electronic means.]~~ A report shall be deemed to be filed ~~[with the Secretary of State:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the Secretary of State**.** ~~[if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.]~~

5. The name and address of the contributor and the date on which the contribution was received must be included on the report for each

contribution, whether from or to a natural person, association or corporation, in excess of $100 and contributions which a contributor or the committee has made cumulatively in excess of that amount since the beginning of the current reporting period.

Sec. 34.3. **NRS 294A.280 is hereby amended to read as follows:**

294A.280 1. Except as otherwise provided in subsection 3, each committee for the recall of a public officer shall, not later than:

(a) Seven days before the special election to recall a public officer, for the period from the filing of the notice of intent to circulate the petition for recall through 12 days before the special election; and

(b) Thirty days after the election, for the remaining period through the election,

➥ report each expenditure made by the committee in excess of $100 on the form designed and provided by the Secretary of State pursuant to NRS 294A.373. The form must be signed by a representative of the committee under penalty of perjury.

2. If a petition for the purpose of recalling a public officer is not filed before the expiration of the notice of intent, the committee for the recall of a public officer shall, not later than 30 days after the expiration of the notice of intent, report each expenditure made by the committee in excess of $100.

3. If a court does not order a special election for the recall of the public officer, the committee for the recall of a public officer shall, not later than 30 days after the court determines that an election will not be held, for the period from the filing of the notice of intent to circulate the petition for recall through the day the court determines that an election will not be held, report each expenditure made by the committee in excess of $100.

4. ~~[Each]~~ ***Except as otherwise provided in section 29.5 of this act, each*** report of expenditures must be filed ***electronically*** with the Secretary of State. ~~[The committee may mail or transmit the report to the Secretary of State by regular mail, certified mail, facsimile machine or electronic means.]~~ A report shall be deemed to be filed ~~[with the Secretary of State:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the Secretary of State . ~~[if the report was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.]~~

Sec. 35. NRS 294A.286 is hereby amended to read as follows:

294A.286 1. A person who administers a legal defense fund shall:

(a) Within 5 days after the creation of the legal defense fund, notify the Secretary of State of the creation of the fund on a form provided by the Secretary of State; and

(b) For the same period covered by the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360, report any contribution received by or expenditure made from the legal defense fund.

2. The reports required by paragraph (b) of subsection 1 must be submitted on the form designed and provided by the Secretary of State

pursuant to NRS 294A.373. Each form must be signed by the administrator of the legal defense fund under penalty of perjury.

3. The reports required by paragraph (b) of subsection 1 must be filed in the same manner and at the same time as the report filed pursuant to NRS 294A.120, 294A.200 or 294A.360.

4. Not later than the 15th day of the second month after the conclusion of all civil, criminal or administrative claims or proceedings for which a candidate or public officer established a legal defense fund, the candidate or public officer shall:

(a) Return the unspent money to contributors;

(b) ~~*[Contribute the money to:*~~

~~*(1) The campaigns of other candidates for public office or the payment of debts related to their campaigns;*~~

~~*(2) A political party;*~~

~~*(3) A person or group of persons advocating the passage or defeat of a question or group of questions on the ballot; or*~~

~~*(4) Any combination of persons or groups set forth in subparagraphs (1), (2) and (3);*~~

~~*(c)]*~~ ***Donate the money to any tax-exempt nonprofit entity; or***

~~*[(d)]*~~ ***(c) Dispose of the money in any combination of the methods provided in paragraphs (a)*** ~~*[,]*~~ ***and (b) .*** ~~*[and (c).]*~~

Sec. 36. NRS 294A.287 is hereby amended to read as follows:

294A.287 1. A person shall not make a contribution or contributions to the legal defense fund of a candidate or public officer in an amount which exceeds $10,000 **.** ~~**[**during the applicable period prescribed in NRS 294A.100 pertaining to the office the candidate is seeking or that the public officer holds.**]**~~

2. A candidate or public officer shall not accept a contribution to his legal defense fund that is made in violation of subsection 1.

3. A person who willfully violates any provision of this section is guilty of a category E felony and shall be punished as provided in NRS 193.130.

Sec. 36.5. **NRS 294A.300 is hereby amended to read as follows:**

294A.300 1. It is unlawful for a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-Elect, the Governor or the Governor-Elect to solicit or accept any monetary contribution, or solicit or accept a commitment to make such a contribution for any political purpose during the period beginning:

(a) Thirty days before a regular session of the Legislature and ending 30 days after the final adjournment of a regular session of the Legislature;

(b) Fifteen days before a special session of the Legislature is set to commence and ending 15 days after the final adjournment of a special session of the Legislature, if the Governor sets a specific date for the commencement of the special session that is more than 15 days after the Governor issues the proclamation calling for the special session; or

(c) The day after the Governor issues a proclamation calling for a special session of the Legislature and ending 15 days after the final adjournment of a special session of the Legislature if the Governor sets a specific date for the commencement of the special session that is 15 or fewer days after the Governor issues the proclamation calling for the special session.

2. ***A person shall not make or commit to make a contribution or commitment prohibited by subsection 1.***

3. This section does not prohibit the payment of a salary or other compensation or income to a member of the Legislature, the Lieutenant Governor or the Governor during a session of the Legislature if it is made for services provided as a part of his regular employment or is additional income to which he is entitled.

~~[3.]~~ ***4.*** As used in this section, "political purpose" includes, without limitation, the establishment of, or the addition of money to, a legal defense fund.

Sec. 37. NRS 294A.347 is hereby amended to read as follows:

294A.347 1. A statement which:

(a) Is published within 60 days before a general election, general city election or special election or 30 days before a primary election or primary city election;

(b) Expressly advocates the election or defeat of a clearly identified candidate for a state or local office; and

(c) Is published by a person who receives compensation from the candidate, an opponent of the candidate ~~[,]~~ or a ~~[person, party, committee or business entity required to report expenditures pursuant to NRS 294A.210,]~~ ***committee for political action,***

➥ must contain a disclosure of the fact that the person receives compensation pursuant to paragraph (c) and the name of the person ~~[, party, committee or business entity]~~ ***or committee for political action*** providing that compensation.

2. A statement which:

(a) Is published by a candidate within 60 days before a general election, general city election or special election or 30 days before a primary election or primary city election; and

(b) Contains the name of the candidate,

➥ shall be deemed to comply with the provisions of this section.

3. As used in this section, "publish" means the act of:

(a) Printing, posting, broadcasting, mailing or otherwise disseminating; or

(b) Causing to be printed, posted, broadcasted, mailed or otherwise disseminated.

Sec. 38. NRS 294A.360 is hereby amended to read as follows:

294A.360 1. Every candidate for city office at a primary city election or general city election shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than January 15 of each year, for the period from January 1 of the previous year

through December 31 of the previous year. The provisions of this subsection apply to the candidate:

(a) Beginning the year of the general city election for that office through the year immediately preceding the next general city election for that office; and

(b) Each year immediately succeeding a calendar year during which the candidate disposes of contributions pursuant to NRS 294A.160 ~~[.]~~ ***or subsection 4 of NRS 294A.286.***

2. Every candidate for city office at a primary city election or general city election, if the general city election for the office for which he is a candidate is held on or after January 1 and before the July 1 immediately following that January 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

(a) Seven days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through 12 days before the primary city election;

(b) Seven days before the general city election for that office, for the period from 11 days before the primary city election through 12 days before the general city election; and

(c) July 15 of the year of the general city election for that office, for the period from 11 days before the general city election through the June 30 of that year.

3. Every candidate for city office at a primary city election or general city election, if the general city election for the office for which he is a candidate is held on or after July 1 and before the January 1 immediately following that July 1, shall file the reports in the manner required by NRS 294A.120, 294A.128 and 294A.200 for other offices not later than:

(a) Seven days before the primary city election for that office, for the period from the January 1 immediately preceding the primary city election through 12 days before the primary city election; and

(b) Seven days before the general city election for that office, for the period from 11 days before the primary city election through 12 days before the general city election.

4. Except as otherwise provided in subsection 5, every candidate for city office at a special election shall so file those reports:

(a) Seven days before the special election, for the period from his nomination through 12 days before the special election; and

(b) Thirty days after the special election, for the remaining period through the special election.

5. Every candidate for city office at a special election to determine whether a public officer will be recalled shall so file those reports 30 days after:

(a) The special election, for the period from the filing of the notice of intent to circulate the petition for recall through the special election; or

(b) If the special election is not held because a district court determines that the petition for recall is legally insufficient pursuant to subsection 5 of NRS 306.040, for the period from the filing of the notice of intent to circulate the petition for recall through the date of the district court's decision.

Sec. 38.2. **NRS 294A.362 is hereby amended to read as follows:**

294A.362 1. In addition to reporting information pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 and 294A.360, each candidate who is required to file a report of campaign contributions and expenses pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 or 294A.360 shall report on the form designed and provided by the Secretary of State pursuant to NRS 294A.373 goods and services provided in kind for which money would otherwise have been paid. The candidate shall list on the form each such campaign contribution in excess of $100 that he receives during the reporting period, each such campaign contribution from a contributor received during the reporting period which cumulatively exceeds $100, and each such expense in excess of $100 he incurs during the reporting period.

2. The Secretary of State and each city clerk shall not require a candidate to list the campaign contributions and expenses described in this section on any form other than the form designed and provided by the Secretary of State pursuant to NRS 294A.373.

3. The report of campaign contributions and expenses described in this section must be filed in the same manner and at the same time as the candidate files the reports required pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.200 and 294A.360.

Sec. 39. NRS 294A.365 is hereby amended to read as follows:

294A.365 1. Each report of expenditures required pursuant to NRS 294A.210 **[**~~, 294A.220,~~**]** ***and*** 294A.280 **[**~~and 294A.283~~**]** must consist of a list of each expenditure in excess of $100 or $1,000, as is appropriate, that was made during the periods for reporting. Each report of expenses required pursuant to NRS 294A.125 and 294A.200 must consist of a list of each expense in excess of $100 that was incurred during the periods for reporting. The list in each report must state the category and amount of the expense or expenditure and the date on which the expense was incurred or the expenditure was made.

2. The categories of expense or expenditure for use on the report of expenses or expenditures are:

(a) Office expenses;
(b) Expenses related to volunteers;
(c) Expenses related to travel;
(d) Expenses related to advertising;
(e) Expenses related to paid staff;
(f) Expenses related to consultants;
(g) Expenses related to polling;
(h) Expenses related to special events;

(i) Except as otherwise provided in NRS 294A.362, goods and services provided in kind for which money would otherwise have been paid; and

(j) Other miscellaneous expenses.

3. Each report of expenses or expenditures described in subsection 1 must list the disposition of any unspent campaign contributions using the categories set forth in subsection 2 of NRS 294A.160 ~~[.]~~ ***or subsection 4 of NRS 294A.286.***

Sec. 40. NRS 294A.373 is hereby amended to read as follows:

294A.373 1. The Secretary of State shall design a single form to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, ~~[294A.150,]~~ 294A.200, 294A.210, ~~[294A.220,]~~ 294A.270, 294A.280, ~~[294A.283,]~~ 294A.360 and 294A.362 and reports of contributions received by and expenditures made from a legal defense fund that are required to be filed pursuant to NRS 294A.286.

2. The form designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. Upon request, the Secretary of State shall provide a copy of the form designed pursuant to this section to each person, ~~[or]~~ committee , political party, group and business entity that is required to file a report described in subsection 1.

4. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of a form designed or revised by the Secretary of State pursuant to this section to a person, ~~[or]~~ committee , political party, group or business entity that is required to use the form.

Sec. 40.5. **NRS 294A.373 is hereby amended to read as follows:**

294A.373 1. The Secretary of State shall design ~~[a single form]~~ ***forms*** to be used for all reports of campaign contributions and expenses or expenditures that are required to be filed pursuant to NRS 294A.120, 294A.125, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280, 294A.360 and 294A.362 and reports of contributions received by and expenditures made from a legal defense fund that are required to be filed pursuant to NRS 294A.286.

2. The ~~[form]~~ ***forms*** designed by the Secretary of State pursuant to this section must only request information specifically required by statute.

3. ~~[Upon request, the]~~ ***The*** Secretary of State shall provide ~~[a]~~ ***to each person, committee, political party, group and business entity that is required to file a report described in subsection 1:***

(a) If the person, committee, political party, group or business entity is required to submit the report to a city clerk, a copy of the form ***;*** ~~[designed pursuant to this section to each person, committee, political party, group and business entity that is required to file a report described in subsection 1.]~~

(b) If the person, committee, political party, group or business entity is required to submit the report electronically to the Secretary of State, access through a secure website to the form; or

(c) If the person, committee, political party, group or business entity is required to submit the report electronically to the Secretary of State and has submitted an affidavit to the Secretary of State pursuant to section 29.5 of this act, a copy of the form.

4. ***If a person, committee, political party, group or business entity is required to submit electronically a report described in subsection 1, the form must be signed electronically under penalty of perjury.***

5. The Secretary of State must obtain the advice and consent of the Legislative Commission before providing a copy of ***, or access to,*** a form designed or revised by the Secretary of State pursuant to this section to a person, committee, political party, group or business entity***.*** ~~[that is required to use the form.]~~

6. The Secretary of State may adopt any regulations necessary to carry out of the provisions of this section.

Sec. 41. NRS 294A.390 is hereby amended to read as follows:

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;

2. An acceptance of candidacy;

3. The registration of a committee for political action pursuant to NRS 294A.230, a committee for the recall of a public officer pursuant to NRS 294A.250 or a business entity that wishes to engage in certain political activity pursuant to NRS 294A.377;

4. The reporting of the creation of a legal defense fund pursuant to NRS 294A.286; or

5. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, ~~[294A.150,]~~ 294A.200, 294A.210, ~~[294A.220,]~~ 294A.270, 294A.280 ~~[, 294A.283]~~ or 294A.360 and the reporting of contributions received by and expenditures made from a legal defense fund pursuant to NRS 294A.286,

➥ shall furnish the candidate with the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, ~~[294A.150,]~~ 294A.200, 294A.210, ~~[294A.220,]~~ 294A.270, 294A.280 ~~[, 294A.283]~~ or 294A.360 relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420, and an explanation of NRS 294A.286 and 294A.287 relating to the accepting or reporting of contributions received by and expenditures made from a legal defense fund and the penalties for a violation of those provisions as set forth in NRS 294A.287 and 294A.420,

must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 41.5. **NRS 294A.390 is hereby amended to read as follows:**

294A.390 The officer from whom a candidate or entity requests a form for:

1. A declaration of candidacy;

2. An acceptance of candidacy; ***or***

3. The registration of a committee for political action pursuant to NRS 294A.230, a committee for the recall of a public officer pursuant to NRS 294A.250 or a business entity that wishes to engage in certain political activity pursuant to NRS 294A.377**,** ~~[~~;

~~4. The reporting of the creation of a legal defense fund pursuant to NRS 294A.286; or~~

~~5. The reporting of campaign contributions, expenses or expenditures pursuant to NRS 294A.120, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280 or 294A.360 and the reporting of contributions received by and expenditures made from a legal defense fund pursuant to NRS 294A.286,~~**]**

➥ shall furnish the candidate ***or entity*** with **[**~~the necessary forms for reporting and copies of the regulations adopted by the Secretary of State pursuant to this chapter. An~~**]** ***an*** explanation of the applicable provisions of NRS 294A.100, 294A.120, 294A.128, 294A.140, 294A.200, 294A.210, 294A.270, 294A.280 or 294A.360 relating to the making, accepting or reporting of campaign contributions, expenses or expenditures and the penalties for a violation of those provisions as set forth in NRS 294A.100 or 294A.420, and an explanation of NRS 294A.286 and 294A.287 relating to the accepting or reporting of contributions received by and expenditures made from a legal defense fund and the penalties for a violation of those provisions as set forth in NRS 294A.287 and 294A.420, must be developed by the Secretary of State and provided upon request. The candidate or entity shall acknowledge receipt of the material.

Sec. 42. NRS 294A.400 is hereby amended to read as follows:

294A.400 The Secretary of State shall, within 30 days after receipt of the reports required by NRS 294A.120, 294A.125, 294A.128, 294A.140, **[**~~294A.150,~~**]** 294A.200, 294A.210, **[**~~294A.220,~~**]** 294A.270, 294A.280 **[**~~, 294A.283~~**]** and 294A.286, prepare and make available for public inspection a compilation of:

1. The total campaign contributions, the contributions which are in excess of $100 and the total campaign expenses of each of the candidates from whom reports of those contributions and expenses are required.

2. The total amount of loans to a candidate guaranteed by a third party, the total amount of loans made to a candidate that have been forgiven and the total amount of written commitments for contributions received by a candidate.

3. The contributions made to a committee for the recall of a public officer in excess of $100.

4. The expenditures exceeding $100 made by a:

(a) Person on behalf of a candidate other than himself.

(b) Group of persons or business entity advocating the election or defeat of a candidate.

(c) Committee for the recall of a public officer.

5. The contributions in excess of $100 made to:

(a) A person who is not under the direction or control of a candidate or group of candidates or of any person involved in the campaign of the candidate or group who makes an expenditure on behalf of the candidate or group which is not solicited or approved by the candidate or group.

(b) A committee for political action, political party, committee sponsored by a political party or business entity which makes an expenditure on behalf of a candidate or group of candidates.

6. ~~[~~The contributions in excess of $1,000 made to and the expenditures exceeding $1,000 made by a:

(a) Person or group of persons organized formally or informally, including a business entity who advocates the passage or defeat of a question or group of questions on the ballot and who receives or expends money in an amount in excess of $10,000 for such advocacy, except as otherwise provided in paragraph (b).

(b) Person or group of persons organized formally or informally, including a business entity, who advocates the passage or defeat of a constitutional amendment or statewide measure proposed by an initiative or referendum, including, without limitation, the initiation or circulation thereof, and who receives or expends money in an amount in excess of $10,000 for such advocacy.

7.~~]~~ The total contributions received by and expenditures made from a legal defense fund.

Sec. 43. NRS 294A.420 is hereby amended to read as follows:

294A.420 1. If the Secretary of State receives information that a person or entity that is subject to the provisions of NRS 294A.120, 294A.128, 294A.140, ~~[~~294A.150,~~]~~ 294A.200, 294A.210, ~~[~~294A.220,~~]~~ 294A.230, ***294A.250,*** 294A.270, 294A.280, ~~[~~294A.283,~~]~~ 294A.286, ***294A.350,*** 294A.360 or 294A.377 has not filed a report or form for registration pursuant to the applicable provisions of those sections, the Secretary of State may, after giving notice to that person or entity, cause the appropriate proceedings to be instituted in the First Judicial District Court.

2. Except as otherwise provided in this section, a person or entity that violates an applicable provision of NRS 294A.112, 294A.120, 294A.128, 294A.130, 294A.140, ~~[~~294A.150,~~]~~ 294A.160, 294A.200, 294A.210, ~~[~~294A.220,~~]~~ 294A.230, ***294A.250,*** 294A.270, 294A.280, ~~[~~294A.283,~~]~~ 294A.286, 294A.300, 294A.310, ***294A.350,*** 294A.360 or 294A.377 is subject to a civil penalty of not more than $5,000 for each violation and

payment of court costs and attorney's fees. The civil penalty must be recovered in a civil action brought in the name of the State of Nevada by the Secretary of State in the First Judicial District Court and deposited by the Secretary of State for credit to the State General Fund in the bank designated by the State Treasurer.

3. If a civil penalty is imposed because a person or entity has reported its contributions, expenses or expenditures after the date the report is due, except as otherwise provided in this subsection, the amount of the civil penalty is:

(a) If the report is not more than 7 days late, $25 for each day the report is late.

(b) If the report is more than 7 days late but not more than 15 days late, $50 for each day the report is late.

(c) If the report is more than 15 days late, $100 for each day the report is late.

➥ A civil penalty imposed pursuant to this subsection against a public officer who by law is not entitled to receive compensation for his office or a candidate for such an office must not exceed a total of $100 if the public officer or candidate received no contributions and made no expenditures during the relevant reporting periods.

4. For good cause shown, the Secretary of State may waive a civil penalty that would otherwise be imposed pursuant to this section. If the Secretary of State waives a civil penalty pursuant to this subsection, the Secretary of State shall:

(a) Create a record which sets forth that the civil penalty has been waived and describes the circumstances that constitute the good cause shown; and

(b) Ensure that the record created pursuant to paragraph (a) is available for review by the general public.

Sec. 44. NRS 306.040 is hereby amended to read as follows:

306.040 1. Upon determining that the number of signatures on a petition to recall is sufficient pursuant to NRS 293.1276 to 293.1279, inclusive, the Secretary of State shall notify the county clerk, the officer with whom the petition is to be filed pursuant to subsection 4 of NRS 306.015 and the public officer who is the subject of the petition.

2. After the verification of signatures is complete ~~[,]~~ but not later than the date a complaint is filed pursuant to subsection 5 or the date the call for a special election is issued, whichever is earlier, a person who signs a petition to recall may request the Secretary of State to strike his name from the petition. If the person demonstrates good cause therefor and the number of such requests received by the Secretary of State could affect the sufficiency of the petition, the Secretary of State shall strike the name of the person from the petition.

3. Not sooner than 10 days ~~[nor]~~ ***or*** more than 20 days after the Secretary of State completes the notification required by subsection 1, if a complaint is not filed pursuant to subsection 5, the officer with whom the petition is filed

shall issue a call for a special election in the jurisdiction in which the public officer who is the subject of the petition was elected to determine whether the people will recall him.

4. The call for a special election pursuant to subsection 3 or 6 must include, without limitation:

(a) The last day on which a person may register to vote to qualify to vote in the special election; ~~[and]~~

(b) The last day on which a petition to nominate other candidates for the office may be filed ~~[.]~~ ***; and***

(c) Whether any person is entitled to vote in the special election pursuant to 293.343 to 293.355, inclusive.

5. The legal sufficiency of the petition may be challenged by filing a complaint in district court not later than 5 days, Saturdays, Sundays and holidays excluded, after the Secretary of State completes the notification required by subsection 1. All affidavits and documents in support of the challenge must be filed with the complaint. The court shall set the matter for hearing not later than 30 days after the complaint is filed and shall give priority to such a complaint over all other matters pending with the court, except for criminal proceedings.

6. Upon the conclusion of the hearing, if the court determines that the petition is sufficient, it shall order the officer with whom the petition is filed to issue a call for a special election in the jurisdiction in which the public officer who is the subject of the petition was elected to determine whether the people will recall him. If the court determines that the petition is not sufficient, it shall order the officer with whom the petition is filed to cease any further proceedings regarding the petition.

Sec. 44.1. **Chapter 281A of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A public officer who is required to file electronically a statement of financial disclosure with the Secretary of State pursuant to NRS 281A.600 or 281A.610 is not required to file the statement electronically if the public officer submits to the Secretary of State an affidavit stating that:

(a) The public officer does not own or have the ability to access the technology necessary to file electronically the statement of financial disclosure; and

(b) The public officer does not have the financial ability to purchase or acquire access to the technology necessary to file electronically the statement of financial disclosure.

2. Each affidavit submitted pursuant to subsection 1 must be in the form prescribed by the Secretary of State and signed under penalty of perjury.

Sec. 44.2. **NRS 281A.290 is hereby amended to read as follows:**

281A.290 The Commission shall:

1. Adopt procedural regulations:

(a) To facilitate the receipt of inquiries by the Commission;

(b) For the filing of a request for an opinion with the Commission;

(c) For the withdrawal of a request for an opinion by the person who filed the request; and

(d) To facilitate the prompt rendition of opinions by the Commission.

2. Prescribe, by regulation, ~~[forms for the submission of statements of financial disclosure and procedures for the submission of statements of financial disclosure filed pursuant to NRS 281A.600 and]~~ forms and procedures for the submission of statements of acknowledgment filed by public officers pursuant to NRS 281A.500, maintain files of such statements and make the statements available for public inspection.

3. Cause the making of such investigations as are reasonable and necessary for the rendition of its opinions pursuant to this chapter.

4. ~~[Except as otherwise provided in NRS 281A.600, inform]~~ ***Inform*** the Attorney General or district attorney of all cases of noncompliance with the requirements of this chapter.

5. Recommend to the Legislature such further legislation as the Commission considers desirable or necessary to promote and maintain high standards of ethical conduct in government.

6. Publish a manual for the use of public officers and employees that contains:

(a) Hypothetical opinions which are abstracted from opinions rendered pursuant to subsection 1 of NRS 281A.440, for the future guidance of all persons concerned with ethical standards in government;

(b) Abstracts of selected opinions rendered pursuant to subsection 2 of NRS 281A.440; and

(c) An abstract of the requirements of this chapter.

➥ The Legislative Counsel shall prepare annotations to this chapter for inclusion in the Nevada Revised Statutes based on the abstracts and published opinions of the Commission.

Sec. 44.3. **NRS 281A.470 is hereby amended to read as follows:**

281A.470 1. Any department, board, commission or other agency of the State or the governing body of a county or an incorporated city may establish a specialized or local ethics committee to complement the functions of the Commission. A specialized or local ethics committee may:

(a) Establish a code of ethical standards suitable for the particular ethical problems encountered in its sphere of activity. The standards may not be less restrictive than the statutory ethical standards.

(b) Render an opinion upon the request of any public officer or employee of its own organization or level seeking an interpretation of its ethical standards on questions directly related to the propriety of his own future official conduct or refer the request to the Commission. Any public officer or employee subject to the jurisdiction of the committee shall direct his inquiry to that committee instead of the Commission.

(c) Require the filing of statements of financial disclosure by public officers on forms prescribed by the committee or the city clerk if the form has been:

(1) Submitted, at least 60 days before its anticipated distribution, to the ~~[Commission]~~ ***Secretary of State*** for review; and

(2) Upon review, approved by the ~~[Commission.]~~ ***Secretary of State.***

2. A specialized or local ethics committee shall not attempt to interpret or render an opinion regarding the statutory ethical standards.

3. Each request for an opinion submitted to a specialized or local ethics committee, each hearing held to obtain information on which to base an opinion, all deliberations relating to an opinion, each opinion rendered by a committee and any motion relating to the opinion are confidential unless:

(a) The public officer or employee acts in contravention of the opinion; or

(b) The requester discloses the content of the opinion.

Sec. 44.4. **NRS 281A.500 is hereby amended to read as follows:**

281A.500 1. Every public officer shall acknowledge that he has received, read and understands the statutory ethical standards. The acknowledgment must be on a form prescribed by the Commission and must ~~[accompany the first statement of financial disclosure that the public officer is required to file]~~ ***be filed*** with the Commission ~~[pursuant to NRS 281A.600 or the Secretary of State pursuant to NRS 281A.610.]~~ ***not later than 30 days after he takes office and on or before January 15 of each year thereafter.***

2. The Commission ~~[and the Secretary of State]~~ shall retain an acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

3. Willful refusal to execute and file the acknowledgment required by this section constitutes nonfeasance in office and is a ground for removal pursuant to NRS 283.440.

Sec. 44.5. **NRS 281A.600 is hereby amended to read as follows:**

281A.600 1. Except as otherwise provided in ~~[subsection 2,]~~ ***subsections 2 and 3 and section 44.1 of this act,*** if a public officer who was appointed to the office for which he is serving is entitled to receive annual compensation of $6,000 or more for serving in that office, he shall file ***electronically*** with the ~~[Commission]~~ ***Secretary of State*** a statement of financial disclosure, as follows:

(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a statement of financial disclosure within 30 days after his appointment.

(b) Each public officer appointed to fill an office shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires.

➥ The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. If a person is serving in a public office for which he is required to file a statement pursuant to subsection 1, he may use the statement he files for

that initial office to satisfy the requirements of subsection 1 for every other public office to which he is appointed and in which he is also serving.

3. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

4. ~~[The Commission shall provide written notification to the Secretary of State of the public officers who failed to file the statements of financial disclosure required by subsection 1 or who failed to file those statements in a timely manner. The notice must be sent within 30 days after the deadlines set forth in subsection 1 and must include:~~

~~(a) The name of each public officer who failed to file his statement of financial disclosure within the period before the notice is sent;~~

~~(b) The name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent;~~

~~(c) For the first notice sent after the public officer filed his statement of financial disclosure, the name of each public officer who filed his statement of financial disclosure after the deadlines set forth in subsection 1 but within the period before the notice is sent; and~~

~~(d) For each public officer listed in paragraph (c), the date on which the statement of financial disclosure was due and the date on which the public officer filed the statement.~~

~~5. In addition to the notice provided pursuant to subsection 4, the Commission shall notify the Secretary of State of each public officer who files a statement of financial disclosure more than 30 days after the deadlines set forth in subsection 1. The notice must include the information described in paragraphs (c) and (d) of subsection 4.~~

~~6.]~~ A statement of financial disclosure shall be deemed to be filed ~~[with the Commission:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the ~~[Commission if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.]~~ ***Secretary of State.***

5. Except as otherwise provided in section 44.1 of this act, the Secretary of State shall provide access through a secure website to the statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section. The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.

Sec. 45. NRS 281A.610 is hereby amended to read as follows:

281A.610 1. Except as otherwise provided in ~~[subsection 2,]~~ ***subsections 2 and 4 and section 44.1 of this act,*** each candidate for public

office who will be entitled to receive annual compensation of $6,000 or more for serving in the office that he is seeking and, except as otherwise provided in subsection 3, each public officer who was elected to the office for which he is serving shall file ***electronically*** with the Secretary of State a statement of financial disclosure, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a statement of financial disclosure no later than the 10th day after the last day to qualify as a candidate for the office. The statement must disclose the required information for the full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office. The filing of a statement of financial disclosure for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a statement of financial disclosure for the full calendar year pursuant to paragraph (b) in the immediately succeeding year, if he is elected to the office.

(b) Each public officer shall file a statement of financial disclosure on or before January 15 of each year of the term, including the year the term expires. The statement must disclose the required information for the full calendar year immediately preceding the date of filing.

2. Except as otherwise provided in this subsection, if a candidate for public office is serving in a public office for which he is required to file a statement pursuant to paragraph (b) of subsection 1 or subsection 1 of NRS 281A.600, he need not file the statement required by subsection 1 for the full calendar year for which he previously filed a statement. The provisions of this subsection do not relieve the candidate of the requirement pursuant to paragraph (a) of subsection 1 to file a statement of financial disclosure for the period between January 1 of the year in which the election for the office will be held and the last day to qualify as a candidate for the office.

3. A person elected pursuant to NRS 548.285 to the office of supervisor of a conservation district is not required to file a statement of financial disclosure relative to that office pursuant to subsection 1.

4. A candidate for judicial office or a judicial officer shall file a statement of financial disclosure pursuant to the requirements of Canon 4I of the Nevada Code of Judicial Conduct. Such a statement of financial disclosure must include, without limitation, all information required to be included in a statement of financial disclosure pursuant to NRS 281A.620.

5. A statement of financial disclosure shall be deemed to be filed ~~[with the Secretary of State:~~

~~(a) On the date that it was mailed if it was sent by certified mail; or~~

~~(b) On]~~ ***on*** the date that it was received by the Secretary of State**.** ~~[if the statement was sent by regular mail, transmitted by facsimile machine or electronic means, or delivered personally.~~

~~6. The statement of financial disclosure filed pursuant to this section must be filed on the form prescribed by the Commission pursuant to NRS 281A.290.]~~

~~[7.] [The]~~

6. Except as otherwise provided in section 44.1 of this act, the Secretary of State shall ~~[prescribe, by regulation, procedures for the submission of statements of financial disclosure filed pursuant to this section, maintain files of such statements and make the statements available for public inspection.]~~ ***provide access through a secure website to the statement of financial disclosure to each person who is required to file the statement with the Secretary of State pursuant to this section. The Secretary of State may adopt any regulations necessary to carry out the provisions of this section.***

Sec. 45.2. **NRS 281A.620 is hereby amended to read as follows:**

281A.620 1. Statements of financial disclosure, as approved pursuant to NRS 281A.470 or in such ***electronic*** form as the ~~[Commission]~~ ***Secretary of State*** otherwise prescribes, must contain the following information concerning the candidate for public office or public officer:

(a) His length of residence in the State of Nevada and the district in which he is registered to vote.

(b) Each source of his income, or that of any member of his household who is 18 years of age or older. No listing of individual clients, customers or patients is required, but if that is the case, a general source such as "professional services" must be disclosed.

(c) A list of the specific location and particular use of real estate, other than a personal residence:

(1) In which he or a member of his household has a legal or beneficial interest;

(2) Whose fair market value is $2,500 or more; and

(3) That is located in this State or an adjacent state.

(d) The name of each creditor to whom he or a member of his household owes $5,000 or more, except for:

(1) A debt secured by a mortgage or deed of trust of real property which is not required to be listed pursuant to paragraph (c); and

(2) A debt for which a security interest in a motor vehicle for personal use was retained by the seller.

(e) If the candidate for public office or public officer has received gifts in excess of an aggregate value of $200 from a donor during the preceding taxable year, a list of all such gifts, including the identity of the donor and value of each gift, except:

(1) A gift received from a person who is related to the candidate for public office or public officer within the third degree of consanguinity or affinity.

(2) Ceremonial gifts received for a birthday, wedding, anniversary, holiday or other ceremonial occasion if the donor does not have a substantial

interest in the legislative, administrative or political action of the candidate for public office or public officer.

(f) A list of each business entity with which he or a member of his household is involved as a trustee, beneficiary of a trust, director, officer, owner in whole or in part, limited or general partner, or holder of a class of stock or security representing 1 percent or more of the total outstanding stock or securities issued by the business entity.

(g) A list of all public offices presently held by him for which this statement of financial disclosure is required.

2. The ~~[Commission shall distribute or cause to be distributed the forms required for such a statement to each candidate for public office and public officer who is required to file one. The Commission is not responsible for the costs of producing or distributing a form for filing statements of financial disclosure which is prescribed pursuant to subsection 1 of NRS 281A.470.]~~ ***Secretary of State may adopt any regulations necessary to carry out the provisions of this section.***

3. As used in this section:

(a) "Business entity" means an organization or enterprise operated for economic gain, including a proprietorship, partnership, firm, business, trust, joint venture, syndicate, corporation or association.

(b) "Household" includes:

(1) The spouse of a candidate for public office or public officer;

(2) A person who does not live in the same home or dwelling, but who is dependent on and receiving substantial support from the candidate for public office or public officer; and

(3) A person who lived in the home or dwelling of the candidate for public office or public officer for 6 months or more in the year immediately preceding the year in which the candidate for public office or public officer files the statement of financial disclosure.

Sec. 45.3. **NRS 281A.630 is hereby amended to read as follows:**

281A.630 1. Except as otherwise provided in subsection 2, statements of financial disclosure required by the provisions of NRS 281A.600, 281A.610 and 281A.620 must be retained by the ~~[Commission or]~~ Secretary of State for 6 years after the date of filing.

2. For public officers who serve more than one term in either the same public office or more than one public office, the period prescribed in subsection 1 begins on the date of the filing of the last statement of financial disclosure for the last public office held.

Sec. 45.4. **NRS 281A.640 is hereby amended to read as follows:**

281A.640 1. A list of each public officer who is required to file a statement of financial disclosure must be submitted electronically to the ~~[Commission and to the]~~ Secretary of State, in a form prescribed by the ~~[Commission,]~~ ***Secretary of State,*** on or before December 1 of each year by:

(a) Each county clerk for all public officers of the county and other local governments within the county other than cities;

(b) Each city clerk for all public officers of the city;

(c) The Director of the Legislative Counsel Bureau for all public officers of the Legislative Branch; and

(d) The Chief of the Budget Division of the Department of Administration for all public officers of the Executive Branch.

2. ~~[The Secretary of State, each]~~ ***Each*** county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the ~~[Commission,]~~ ***Secretary of State,*** and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, and each city clerk shall submit electronically to the Secretary of State, in a form prescribed by the ~~[Commission,]~~ ***Secretary of State,*** a list of each candidate for public office who filed a declaration of candidacy or acceptance of candidacy with that officer within 10 days after the last day to qualify as a candidate for the applicable office.

Sec. 45.5. **NRS 281A.650 is hereby amended to read as follows:**

281A.650 The Secretary of State and each county clerk, or the registrar of voters of the county if one was appointed pursuant to NRS 244.164, or city clerk who receives from a candidate for public office a declaration of candidacy, acceptance of candidacy or certificate of candidacy shall give to the candidate **:**

1. If the candidate is a candidate for judicial office, the form prescribed by the ~~[Commission]~~ ***Administrative Office of the Courts*** for the making of a statement of financial disclosure ~~[.]~~ **;**

2. If the candidate is not a candidate for judicial office and is required to file electronically the statement of financial disclosure, access to the electronic form prescribed by the Secretary of State; or

3. If the candidate is not a candidate for judicial office, is required to submit the statement of financial disclosure electronically and has submitted an affidavit to the Secretary of State pursuant to section 44.1 of this act, the form prescribed by the Secretary of State,

➥ accompanied by instructions on how to complete the form ~~[, where it must be filed]~~ and the time by which it must be filed.

Sec. 46. NRS 294A.150, 294A.220, 294A.281, 294A.282, 294A.283 and 294A.284 are hereby repealed.

Sec. 47. **1.** This **section and sections 1 to 29.3, inclusive, 30, 31, 32, 33, 34, 35 to 38, inclusive, 39, 40, 41, 42, 43, 44 and 46 of this** act ~~[becomes]~~ **become** effective on July 1, 2009.

2. Sections 29.5, 32.2 to 32.5, inclusive, 33.1, 33.2, 34.2, 34.3, 38.2, 40.5, 41.5 and 44.1 to 45.5, inclusive, of this act become effective on January 16, 2011.

LEADLINES OF REPEALED SECTIONS

294A.150 Person or group of persons, including business entities, advocating passage or defeat of question on ballot who receives or

expends money in excess of $10,000 to report contributions received; period covered; form; filing.

294A.220 Person or group of persons, including business entities, advocating passage or defeat of question on ballot who receives or expends money in excess of $10,000 to report expenditures; deadline; period covered; form; filing.

294A.281 Registration.

294A.282 Registered agent.

294A.283 Reporting of contributions and expenditures; period covered; deadline; form; filing.

294A.284 Reporting of certain information concerning compensation of persons to circulate petitions.

Assemblywoman Koivisto moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 119.

Bill read second time.

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

Amendment No. 532.

SUMMARY—Requires the comprehensive regional plan in certain counties to include provisions concerning the ~~[identification and]~~ sustainability of certain ~~[supplies of]~~ water ~~[.]~~ **resources.** (BDR 22-750)

AN ACT relating to planning; requiring the comprehensive regional plan in certain counties to include provisions concerning the ~~[identification and]~~ sustainability of certain ~~[supplies of]~~ water ~~[.]~~ **resources;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the regional planning commission of a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) to develop a comprehensive regional plan for the physical development and orderly growth of the region. (NRS 278.0272) The comprehensive regional plan must include goals, policies, maps and other documents relating to population, conservation, limitation of premature expansion, land use, transportation, public facilities and services, annexation, intergovernmental coordination and certain utility projects. (NRS 278.0274) **Existing law also provides for the development by the Northern Nevada Water Planning Commission of a comprehensive plan concerning supplies of water within the planning area for the comprehensive plan and for the adoption of such a plan by the Western Regional Water Commission. (NRS 540A.010; Chapter 531, Statutes of Nevada 2007, pp. 3285-3304)** This bill requires the comprehensive regional plan to include several provisions concerning the availability of water **resources** for growth and development, including a statement setting forth the total population of

the ~~[county]~~ **region** that may be supported by the ~~[identified and]~~ sustainable ~~[supply of]~~ water ~~[in the county as determined by the water planning commission of the county.]~~ **resources identified in the comprehensive plan adopted by the Western Regional Water Commission.**

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

Section 1. ~~[NRS 278.026 is hereby amended to read as follows:~~

~~278.026 As used in NRS 278.026 to 278.029, inclusive, unless the context otherwise requires:~~

~~1. "Affected entity" means a public utility, franchise holder, local or regional agency, or any other entity having responsibility for planning or providing public facilities relating to transportation, solid waste, energy generation and transmission, conventions and the promotion of tourism, air quality or public education. The term does not include:~~

~~(a) A state agency; or~~

~~(b) A public utility which is subject to regulation by the Public Utilities Commission of Nevada.~~

~~2. "Facilities plan" means a plan for the development of public facilities which will have a regional impact or which will aid in accomplishing regional goals relating to transportation, solid waste, energy generation and transmission, conventions and the promotion of tourism, air quality or public education. The term does not include a plan for the development of a specific site or regulations adopted by an affected entity to implement the comprehensive regional plan.~~

~~3. "Governing board" means the governing board for regional planning created pursuant to NRS 278.0264.~~

~~4. "Joint planning area" means an area that is the subject of common study and planning by the governing body of a county and one or more cities.~~

~~5. "Project of regional significance," with respect to a project proposed by any person other than a public utility, means a project which:~~

~~(a) Has been identified in the guidelines of the regional planning commission as a project which will result in the loss or significant degradation of a designated historic, archeological, cultural or scenic resource;~~

~~(b) Has been identified in the guidelines of the regional planning commission as a project which will result in the creation of significant new geothermal or mining operations;~~

~~(c) Has been identified in the guidelines of the regional planning commission as a project which will have a significant effect on the natural resources, public services, public facilities, including, without limitation, schools, or the adopted regional form of the region; or~~

~~(d) Will require a change in zoning, a special use permit, an amendment to a master plan, a tentative map or other approval for the use of land which, if approved, will have an effect on the region of increasing:~~

~~(1) Employment by not less than 938 employees;~~
~~(2) Housing by not less than 625 units;~~
~~(3) Hotel accommodations by not less than 625 rooms;~~
~~(4) Sewage by not less than 187,500 gallons per day;~~
~~(5) Water usage by not less than 625 acre-feet per year; or~~
~~(6) Traffic by not less than an average of 6,250 trips daily.~~

~~The term does not include any project for which a request for an amendment to a master plan, a change in zoning, a tentative map or a special use permit has been approved by the local planning commission before June 17, 1989.~~

~~6. "Project of regional significance," with respect to a project proposed by a utility, includes:~~
~~(a) An electric substation;~~
~~(b) A transmission line that carries 60 kilovolts or more;~~
~~(c) A facility that generates electricity greater than 5 megawatts;~~
~~(d) Natural gas storage and peak shaving facilities; and~~
~~(e) Gas regulator stations and mains that operate over 100 pounds per square inch.~~

~~7. "Sphere of influence" means~~ ***, except as otherwise provided in NRS 278.0274,*** ~~an area into which a city plans to expand as designated in the comprehensive regional plan within the time designated in the comprehensive regional plan.~~**] (Deleted by amendment.)**

Sec. 2. NRS 278.0274 is hereby amended to read as follows:

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population. ***This portion of the plan must set forth the total population of the*** ~~*[county]*~~ ***region that may be supported by the*** ~~*[identified and]*~~ ***sustainable*** ~~*[supply of]*~~ ***water*** ~~*[in the county as determined by the water planning commission of the county.]*~~ ***resources identified in the comprehensive plan adopted by the Western Regional Water Commission pursuant to section 34 of chapter 531, Statutes of Nevada 2007, at page 3293, if applicable to the region. The provisions of this subsection do not limit or otherwise affect any authority or duty of the State Engineer.***

2. Conservation, including policies relating to the use and protection of air, land, water and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.

3. The limitation of the premature expansion of development into undeveloped areas, preservation of neighborhoods and revitalization of urban areas, including, without limitation, policies that relate to the interspersion of new housing and businesses in established neighborhoods and set forth principles by which growth will be directed to older urban areas.

4. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected necessity and availability of public facilities, including, without limitation, schools, and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must:

(a) Address, if applicable:

(1) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(2) The coordination and compatibility of land uses with each military installation in the region, taking into account the location, purpose and stated mission of the military installation;

(b) Allow for a variety of uses;

(c) ~~*[Estimate the amount of water required for those future uses;]*~~ ***Set forth a pattern of development consistent with the total population of the region that may be supported by the sustainable water resources described in subsection 1;***

(d) Describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses; ~~[and~~

~~(d)]~~ ***(e)*** Be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area ~~[.]~~ ***; and***

(f) Set forth policies that require ~~*[, as a condition of the approval of any land use, proof of the availability of water as determined by the water planning commission of the county in accordance with subsection 1;*~~

~~*(g) Include the estimated area of potential development of the region that is supported by the identified and sustainable supply of water determined pursuant to subsection 1;*~~

~~*(h) Include the amount of water required to support all development that is approved but is not yet built; and*~~

~~*(i) Set forth policies and criteria, including, without limitation, any required amendment to a master plan of a local government, that may be used to terminate any approval of land use for which water is not committed.]*~~ ***each applicable master plan of a local government to be consistent with the pattern of development and total population specified in paragraph (c).***

5. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and groundwater aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must:

(a) Describe the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction;

(b) Identify the providers of public services within the region and the area within which each must serve, including service territories set by the Public Utilities Commission of Nevada for public utilities;

(c) Establish the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development; and

(d) Contain a summary prepared by the regional planning commission regarding the plans for capital improvements that:

(1) Are required to be prepared by each local government in the region pursuant to NRS 278.0226; and

(2) May be prepared by the water planning commission of the county, the regional transportation commission and the county school district.

6. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each sphere of influence. As used in this subsection, "sphere of influence" means an area into which a political subdivision may expand in the foreseeable future**.** ~~*[and which is within the estimated area of potential development of the region specified in paragraph (g) of subsection 4.]*~~

7. Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

8. Any utility project required to be reported pursuant to NRS 278.145.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 162.

Bill read second time.

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

Amendment No. 433.

AN ACT relating to insurance; requiring certain policies of health insurance and health care plans to provide **an option of** coverage for screening for and treatment of autism; **authorizing the Board of Psychological Examiners to license behavior analysts and autism behavior therapists;** 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, in 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) Existing law also requires employers to provide certain benefits to employees, including coverage for the procedures required to be covered by insurers, if the employer provides health benefits for its employees. (NRS 608.1555) **Sections 1-** ~~[10]~~ **8.5** of this bill require ~~[those]~~ **certain** health care plans and policies of insurance ~~[, other than the State Plan for Medicaid,]~~ to also provide **an option of** coverage for the screening for, including the diagnosis of, and the treatment of autism spectrum disorders in certain circumstances.

Sections 12 and 13 of this bill provide for the licensure of behavior analysts and autism behavior therapists by the Board of Psychological Examiners.

The provisions of this bill apply prospectively to any policy of insurance or health care plan issued or renewed on or after ~~[October 1, 2009.]~~ **January 1, 2011.**

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

Section 1. Chapter 689A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A ~~*[policy of health insurance]*~~ ***health benefit plan must provide an option of coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders*** ~~*[.]*~~ ***for persons covered by the policy under the age of 18 or, if enrolled in high school, under the age of 21.***

2. Optional coverage provided pursuant to this section must be subject to:

(a) A maximum benefit of not less than $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusions or limitations of a policy of health insurance to the same extent as other medical services or prescription drugs covered by the policy.

3. An insurer that offers or issues a policy of health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period ~~*[or other condition]*~~ ***for optional coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or***

(b) Refuse to issue a policy of health insurance or cancel a policy of health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

~~[3. An insurer that offers or issues a policy of health insurance which provides coverage for prescription drugs shall not:~~

~~(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for a prescription for an autism spectrum disorder than is required for other prescription drugs covered by the policy; or~~

~~(b) Refuse to issue a policy of health insurance or cancel a policy of health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.]~~

4. ~~[An]~~ ***Except as provided in subsections 1 and 2, an insurer who offers optional coverage pursuant to subsection 1 shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.***

5. ~~[The coverage required pursuant to this section must not be subject to monetary limits, deductibles or coinsurance provisions that are less favorable to an insured than the monetary limits, deductibles or coinsurance provisions which apply to physical illness generally under the policy.]~~ ***Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:***

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. ~~[A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2009, 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.]~~ ***Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.***

7. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means ~~[any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders,]~~ a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior ~~[.]~~ provided by a licensed behavior analyst or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.

~~[(d) "Board certified]~~ (g) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization ~~[.]~~ , and who is licensed as a behavior analyst by the Board of Psychological Examiners.

~~[(e)]~~ (f) "Licensed autism behavior therapist" means a person who is certified as an autism behavior therapist by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst.

(d) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

~~[(f)]~~ (e) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis , ~~[or any other behavioral therapy,]~~ that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

~~[(g) "Medically appropriate" means any care, intervention, item, service or treatment which is prescribed, provided or ordered by a licensed physician, licensed psychologist or board certified behavior analyst in accordance with accepted standards of practice and which will, or is reasonably expected to:~~

~~(1) Prevent the onset of an illness, condition, injury or disability;~~

~~(2) Reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury or disability; or~~

~~(3) Assist to achieve or maintain maximum functioning capacity in performing daily activities, taking into account both the functional capacity of the recipient and those functional capacities that are appropriate for recipients of the same age.]~~

(h) ~~["Pharmaceutical]~~ "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed

medically ~~[appropriate]~~ necessary to determine the need or effectiveness of the medications.

(i) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) "Screening for autism spectrum disorders" means ~~[all]~~ medically ~~[appropriate]~~ necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(l) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(m) "Treatment ~~[of autism spectrum disorders"]~~ plan" means ~~[habilitative or rehabilitative care, pharmaceutical care, psychiatric care, psychological care or therapeutic care prescribed, provided or ordered for a person diagnosed with]~~ a plan to treat an autism spectrum disorder that is prescribed by a licensed physician ~~[,]~~ or licensed psychologist ~~[or board certified behavior analyst who determines the care to be medically appropriate.]~~ and is developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 2. 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 1 of this act.***

Sec. 3. Chapter 689B of NRS is hereby amended by adding thereto a new section to read as follows:

1. A ~~[policy of group health insurance]~~ health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders ~~[.]~~ to persons covered by the policy of group health insurance under the age of 18 or, if enrolled in high school, under the age of 21.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health insurance policy to the same extent as other medical services or prescription drugs covered by the policy.

3. An insurer that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period ~~[or other condition]~~ for

coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

~~*[3. An insurer that offers or issues a policy of group health insurance which provides coverage for prescription drugs shall not:*~~

~~*(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for a prescription for an autism spectrum disorder than is required for other prescription drugs covered by the policy; or*~~

~~*(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.]*~~

4. ~~[An]~~ Except as provided in subsections 1 and 2, an insurer shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. ~~[The coverage required pursuant to this section must not be subject to monetary limits, deductibles or coinsurance provisions that are less favorable to an insured than the monetary limits, deductibles or coinsurance provisions which apply to physical illness generally under the policy.]~~ Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after ~~[October 1, 2009,]~~ January 1, 2011, 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]~~ subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means ~~[any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders,]~~ a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior ~~[.]~~ provided by a licensed behavior analyst or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.

~~[(d) "Board certified]~~ (g) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization ~~[.]~~ and who is licensed as a behavior analyst by the Board of Psychological Examiners.

~~[(e)]~~ (f) "Licensed autism behavior therapist" means a person who is certified as an autism behavior therapist by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst.

(d) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

~~[(f)]~~ (e) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis , ~~[or any other behavioral therapy,]~~ that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

~~[(g) "Medically appropriate" means any care, intervention, item, service or treatment which is prescribed, provided or ordered by a licensed physician, licensed psychologist or board certified behavior analyst in accordance with accepted standards of practice and which will, or is reasonably expected to:~~

~~(1) Prevent the onset of an illness, condition, injury or disability;~~

~~(2) Reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury or disability; or~~

~~*(3) Assist to achieve or maintain maximum functioning capacity in performing daily activities, taking into account both the functional capacity of the recipient and those functional capacities that are appropriate for recipients of the same age.]*~~

(h) ~~[“Pharmaceutical]~~ “Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically ~~[appropriate]~~ necessary to determine the need or effectiveness of the medications.

(i) ”Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) ”Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) ”Screening for autism spectrum disorders” means ~~[all]~~ medically ~~[appropriate]~~ necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(l) ”Therapeutic care” means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(m) ”Treatment ~~[of autism spectrum disorders”]~~ plan” means ~~[habilitative or rehabilitative care, pharmaceutical care, psychiatric care, psychological care or therapeutic care prescribed, provided or ordered for a person diagnosed with]~~ a plan to treat an autism spectrum disorder that is prescribed by a licensed physician ~~[,]~~ or licensed psychologist ~~[or board certified behavior analyst who determines the care to be medically appropriate.]~~ and is developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 3.5. **Chapter 689C of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A health benefit plan must provide coverage for screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders to persons covered by the policy of group health insurance under the age of 18 or, if enrolled in high school, under the age of 21.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health insurance policy to the same extent as other medical services or prescription drugs covered by the policy.

3. An insurer that offers or issues a policy of group health insurance which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the policy; or

(b) Refuse to issue a policy of group health insurance or cancel a policy of group health insurance solely because the person applying for or covered by the policy uses or may use in the future any of the services listed in subsection 1.

4. Except as provided in subsections 1 and 2, an insurer shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. A policy subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after January 1, 2011, 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 subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior provided by a licensed behavior analyst or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.

(d) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

(e) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

(f) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization and who is licensed as a behavior analyst by the Board of Psychological Examiners.

(g) "Licensed autism behavior therapist" means a person who is certified as an autism behavior therapist by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst.

(h) "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically necessary to determine the need or effectiveness of the medications.

(i) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) "Screening for autism spectrum disorders" means medically necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(l) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(m) "Treatment plan" means a plan to treat an autism spectrum disorder that is prescribed by a licensed physician or licensed psychologist and is developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 4. ~~[Chapter 695B of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. An insurer that offers or issues a contract for hospital or medical service must provide coverage for screening for autism spectrum disorders and for treatment of autism spectrum disorders.~~

~~2. An insurer that offers or issues a contract for hospital or medical service which provides coverage for outpatient care shall not:~~

~~(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the contract; or~~

~~*(b) Refuse to issue a contract for hospital or medical service or cancel a contract for hospital or medical service solely because the person applying for or covered by the contract uses or may use in the future any of the services listed in subsection 1.*~~

~~*3. An insurer that offers or issues a contract for hospital or medical service which provides coverage for prescription drugs shall not:*~~

~~*(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for a prescription for an autism spectrum disorder than is required for other prescription drugs covered by the contract; or*~~

~~*(b) Refuse to issue a contract for hospital or medical service or cancel a contract for hospital or medical service solely because the person applying for or covered by the contract uses or may use in the future any of the services listed in subsection 1.*~~

~~*4. An insurer shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.*~~

~~*5. The coverage required pursuant to this section must not be subject to monetary limits, deductibles or coinsurance provisions that are less favorable to an insured than the monetary limits, deductibles or coinsurance provisions which apply to physical illness generally under the contract.*~~

~~*6. A contract subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2009, has the legal effect of including the coverage required by subsection 1, and any provision of the contract or the renewal which is in conflict with subsection 1 is void.*~~

~~*7. As used in this section:*~~

~~*(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.*~~

~~*(b) "Autism spectrum disorders" means any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.*~~

~~*(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior.*~~

~~*(d) "Board certified behavior analyst" means a person who holds current certification as a board certified behavior analyst issued by the*~~

~~*Behavior Analyst Certification Board, Inc., or any successor in interest to that organization.*~~

~~*(e) "Evidence based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.*~~

~~*(f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis or any other behavioral therapy, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.*~~

~~*(g) "Medically appropriate" means any care, intervention, item, service or treatment which is prescribed, provided or ordered by a licensed physician, licensed psychologist or board certified behavior analyst in accordance with accepted standards of practice and which will, or is reasonably expected to:*~~

~~*(1) Prevent the onset of an illness, condition, injury or disability;*~~

~~*(2) Reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury or disability; or*~~

~~*(3) Assist to achieve or maintain maximum functioning capacity in performing daily activities, taking into account both the functional capacity of the recipient and those functional capacities that are appropriate for recipients of the same age.*~~

~~*(h) "Pharmaceutical care" means medications prescribed by a licensed physician and any health related services deemed medically appropriate to determine the need or effectiveness of the medications.*~~

~~*(i) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.*~~

~~*(j) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.*~~

~~*(k) "Screening for autism spectrum disorders" means all medically appropriate assessments, evaluations or tests to diagnose whether a person has an autism spectrum disorder.*~~

~~*(l) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.*~~

~~*(m) "Treatment of autism spectrum disorders" means habilitative or rehabilitative care, pharmaceutical care, psychiatric care, psychological care or therapeutic care prescribed, provided or ordered for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist or board certified behavior analyst who determines the care to be medically appropriate.]~~ **(Deleted by amendment.)**

Sec. 5. Chapter 695C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A health care plan issued by a health maintenance organization must provide coverage for screening for ***and diagnosis of*** ***autism spectrum disorders and for treatment of autism spectrum disorders*** ~~*[.]*~~ ***to persons***

covered by the health care plan under the age of 18 or, if enrolled in high school, under the age of 21.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health insurance policy to the same extent as other medical services or prescription drugs covered by the policy.

3. A health care plan issued by a health maintenance organization that provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period ~~*[or other condition]*~~ ***for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or***

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

~~*[3. A health care plan issued by a health maintenance organization that provides coverage for prescription drugs shall not:*~~

~~*(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for a prescription for an autism spectrum disorder than is required for other prescription drugs covered by the plan; or*~~

~~*(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.]*~~

4. ~~*[A]*~~ ***Except as provided in subsections 1 and 2, a health maintenance organization shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.***

5. ~~*[The coverage required pursuant to this section must not be subject to monetary limits, deductibles or coinsurance provisions that are less favorable to an insured than the monetary limits, deductibles or coinsurance provisions which apply to physical illness generally under the plan.]*~~ ***Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:***

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. Evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after [October 1, 2009,] January 1, 2011, 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] subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means [any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders,] a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior [.] provided by a licensed behavior analyst or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.

[(d) "Board certified] (g) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization [,] and who is licensed as a behavior analyst by the Board of Psychological Examiners.

[(e)] (f) "Licensed autism behavior therapist" means a person who is certified as an autism behavior therapist by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst.

(d) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

[(f)] (e) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis , [or any other behavioral therapy,] that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.

~~[(g) "Medically appropriate" means any care, intervention, item, service or treatment which is prescribed, provided or ordered by a licensed physician, licensed psychologist or board certified behavior analyst in accordance with accepted standards of practice and which will, or is reasonably expected to:~~

~~(1) Prevent the onset of an illness, condition, injury or disability;~~

~~(2) Reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury or disability; or~~

~~(3) Assist to achieve or maintain maximum functioning capacity in performing daily activities, taking into account both the functional capacity of the recipient and those functional capacities that are appropriate for recipients of the same age.]~~

(h) ~~["Pharmaceutical]~~ "Prescription care" means medications prescribed by a licensed physician and any health-related services deemed medically ~~[appropriate]~~ necessary to determine the need or effectiveness of the medications.

(i) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) "Screening for autism spectrum disorders" means ~~[all]~~ medically ~~[appropriate]~~ necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.

(l) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(m) "Treatment ~~[of autism spectrum disorders"]~~ plan" means ~~[habilitative or rehabilitative care, pharmaceutical care, psychiatric care, psychological care or therapeutic care prescribed, provided or ordered for a person diagnosed with]~~ a plan to treat an autism spectrum disorder that is prescribed by a licensed physician ~~[,]~~ or licensed psychologist ~~[or board certified behavior analyst who determines the care to be medically appropriate.]~~ and is developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.

Sec. 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 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. 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 section 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. 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 screening for and diagnosis of autism spectrum disorders and for treatment of autism spectrum disorders [.] to persons covered by the health care plan under the age of 18 or, if enrolled in high school, under the age of 21.

2. Coverage provided under this section is subject to:

(a) A maximum benefit of $36,000 per year for applied behavior analysis treatment; and

(b) Copayment, deductible and coinsurance provisions and any other general exclusion or limitation of a health insurance policy to the same extent as other medical services or prescription drugs covered by the policy.

3. A managed care organization that offers or issues a health care plan which provides coverage for outpatient care shall not:

(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period ~~[or other condition]~~ for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or

(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.

~~*[3. A managed care organization that offers or issues a health care plan which provides coverage for prescription drugs shall not:*~~

~~*(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for a prescription for an autism spectrum disorder than is required for other prescription drugs covered by the plan; or*~~

~~*(b) Refuse to issue a health care plan or cancel a health care plan solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.]*~~

4. ~~[A]~~ Except as provided in subsections 1 and 2, a managed care organization shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.

5. ~~[The coverage required pursuant to this section must not be subject to monetary limits, deductibles or coinsurance provisions that are less favorable to an insured than the monetary limits, deductibles or coinsurance provisions which apply to physical illness generally under the plan.]~~ Treatment of autism spectrum disorders must be identified in a treatment plan and may include medically necessary habilitative or rehabilitative care, prescription care, psychiatric care, psychological care, behavior therapy or therapeutic care that is:

(a) Prescribed for a person diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist; and

(b) Provided for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist, licensed behavior analyst or other provider that is supervised by the licensed physician, psychologist or behavior analyst.

➥ An insurer may request a copy of and review a treatment plan created pursuant to this subsection.

6. An evidence of coverage subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after ~~[October 1, 2009,]~~ January 1, 2011, 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]~~ subsections 1 or 2 is void.

7. Nothing in this section shall be construed as requiring an insurer to provide reimbursement to an early intervention agency or school for services delivered through early intervention or school services.

8. As used in this section:

(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(b) "Autism spectrum disorders" means ~~*[any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders,]*~~ ***a neurobiological medical condition including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.***

(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior ~~*[.]*~~ ***provided by a licensed behavior analyst or a licensed autism behavior therapist providing services under the supervision of a licensed behavior analyst.***

~~*[(d) "Board certified]*~~ ***(g) "Licensed behavior analyst" means a person who holds current certification or meets the standards to be certified as a board certified behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization*** ~~*[.]*~~ ***and who is licensed as a behavior analyst by the Board of Psychological Examiners.***

~~*[(e)]*~~ ***(f) "Licensed autism behavior therapist" means a person who is certified as an autism behavior therapist by the Board of Psychological Examiners and who provides behavioral therapy under the supervision of a licensed behavior analyst.***

(d) "Evidence-based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.

~~*[(f)]*~~ ***(e) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis*** ~~*,*~~ ***,*** ~~*[or any other behavioral therapy,]*~~ ***that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.***

~~*[(g) "Medically appropriate" means any care, intervention, item, service or treatment which is prescribed, provided or ordered by a licensed physician, licensed psychologist or board certified behavior analyst in accordance with accepted standards of practice and which will, or is reasonably expected to:*~~

~~*(1) Prevent the onset of an illness, condition, injury or disability;*~~

~~*(2) Reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury or disability; or*~~

~~*(3) Assist to achieve or maintain maximum functioning capacity in performing daily activities, taking into account both the functional capacity of the recipient and those functional capacities that are appropriate for recipients of the same age.]*~~

(h) ~~*[“Pharmaceutical]*~~ ***“Prescription care” means medications prescribed by a licensed physician and any health-related services deemed medically*** ~~*[appropriate]*~~ ***necessary to determine the need or effectiveness of the medications.***

(i) ”Psychiatric care” means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(j) ”Psychological care” means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(k) ”Screening for autism spectrum disorders” means ~~*[all]*~~ ***medically*** ~~*[appropriate]*~~ ***necessary assessments, evaluations or tests to screen and diagnose whether a person has an autism spectrum disorder.***

(l) ”Therapeutic care” means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.

(m) ”Treatment ~~*[of autism spectrum disorders”]*~~ ***plan” means*** ~~*[habilitative or rehabilitative care, pharmaceutical care, psychiatric care, psychological care or therapeutic care prescribed, provided or ordered for a person diagnosed with]*~~ ***a plan to treat an autism spectrum disorder that is prescribed by a licensed physician*** ~~*[,]*~~ ***or licensed psychologist*** ~~*[or board certified behavior analyst who determines the care to be medically appropriate.]*~~ ***and is developed pursuant to a comprehensive evaluation in coordination with a licensed behavior analyst.***

Sec. 8.5. **NRS 695G.090 is hereby amended to read as follows:**

695G.090 1. Except as otherwise provided in subsection 3, the provisions of this chapter apply to each organization and insurer that operates as a managed care organization and may include, without limitation, an insurer that issues a policy of health insurance, an insurer that issues a policy of individual or group health insurance, a carrier serving small employers, a fraternal benefit society, a hospital or medical service corporation and a health maintenance organization.

2. In addition to the provisions of this chapter, each managed care organization shall comply with:

(a) The provisions of chapter 686A of NRS, including all obligations and remedies set forth therein; and

(b) Any other applicable provision of this title.

3. The provisions of NRS 695G.164, 695G.200 to 695G.230, inclusive, ~~[and]~~ 695G.430 ***and section 8 of this act*** do not apply to a managed care organization that provides health care services 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 managed care organization from any provision of this chapter for services provided pursuant to any other contract.

Sec. 9. ~~[Chapter 287 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*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 that provides health insurance through a plan of self-insurance must provide coverage for screening for autism spectrum disorders and for treatment of autism spectrum disorders.*~~

~~*2. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance which provides coverage for outpatient care shall not:*~~

~~*(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for outpatient care related to autism spectrum disorders than is required for other outpatient care covered by the plan; or*~~

~~*(b) Refuse to issue a plan of self-insurance or cancel a plan of self-insurance solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.*~~

~~*3. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance which provides coverage for prescription drugs shall not:*~~

~~*(a) Require an insured to pay a higher deductible, copayment or coinsurance or require a longer waiting period or other condition for coverage for a prescription for an autism spectrum disorder than is required for other prescription drugs covered by the plan; or*~~

~~*(b) Refuse to issue a plan of self-insurance or cancel a plan of self-insurance solely because the person applying for or covered by the plan uses or may use in the future any of the services listed in subsection 1.*~~

~~*4. The governing body of any county, school district, municipal corporation, political subdivision, public corporation or other local governmental agency of the State of Nevada that provides health insurance through a plan of self-insurance shall not limit the number of visits an insured may make to any person, entity or group for treatment of autism spectrum disorders.*~~

~~*5. The coverage required pursuant to this section must not be subject to monetary limits, deductibles or coinsurance provisions that are less favorable to an insured than the monetary limits, deductibles or coinsurance provisions which apply to physical illness generally under the plan.*~~

~~*6. A plan subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 1, 2009, 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.*~~

~~*7. As used in this section:*~~

~~*(a) "Applied behavior analysis" means the design, implementation and evaluation of environmental modifications using behavioral stimuli and consequences to produce socially significant improvement in human behavior, including, without limitation, the use of direct observation, measurement and functional analysis of the relations between environment and behavior.*~~

~~*(b) "Autism spectrum disorders" means any of the pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, including, without limitation, autistic disorder, Asperger's Disorder and Pervasive Developmental Disorder Not Otherwise Specified.*~~

~~*(c) "Behavioral therapy" means any interactive therapy derived from evidence-based research, including, without limitation, discrete trial training, early intensive behavioral intervention, intensive intervention programs, pivotal response training and verbal behavior.*~~

~~*(d) "Board certified behavior analyst" means a person who holds current certification as a board certified behavior analyst issued by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization.*~~

~~*(e) "Evidence based research" means research that applies rigorous, systematic and objective procedures to obtain valid knowledge relevant to autism spectrum disorders.*~~

~~*(f) "Habilitative or rehabilitative care" means counseling, guidance and professional services and treatment programs, including, without limitation, applied behavior analysis or any other behavioral therapy, that are necessary to develop, maintain and restore, to the maximum extent practicable, the functioning of a person.*~~

~~*(g) "Medically appropriate" means any care, intervention, item, service or treatment which is prescribed, provided or ordered by a licensed physician, licensed psychologist or board certified behavior analyst in accordance with accepted standards of practice and which will, or is reasonably expected to:*~~

~~*(1) Prevent the onset of an illness, condition, injury or disability;*~~

~~*(2) Reduce or ameliorate the physical, mental or developmental effects of an illness, condition, injury or disability; or*~~

~~*(3) Assist to achieve or maintain maximum functioning capacity in performing daily activities, taking into account both the functional capacity of the recipient and those functional capacities that are appropriate for recipients of the same age.*~~

~~*(h) "Pharmaceutical care" means medications prescribed by a licensed physician and any health-related services deemed medically appropriate to determine the need or effectiveness of the medications.*~~

~~*(i) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.*~~

~~*(j) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.*~~

~~*(k) "Screening for autism spectrum disorders" means all medically appropriate assessments, evaluations or tests to diagnose whether a person has an autism spectrum disorder.*~~

~~*(l) "Therapeutic care" means services provided by licensed or certified speech pathologists, occupational therapists and physical therapists.*~~

~~*(m) "Treatment of autism spectrum disorders" means habilitative or rehabilitative care, pharmaceutical care, psychiatric care, psychological care or therapeutic care prescribed, provided or ordered for a person diagnosed with an autism spectrum disorder by a licensed physician, licensed psychologist or board certified behavior analyst who determines the care to be medically appropriate.]*~~ **(Deleted by amendment.)**

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.171, 695G.173, 695G.177, 695G.200 to 695G.230, inclusive, 695G.241 to 695G.310, inclusive, and 695G.405, *and section 8 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.~~**]** **(Deleted by amendment.)**

Sec. 11. ~~[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.~~**]** **(Deleted by amendment.)**

Sec. 12. **Chapter 641 of NRS is hereby amended by adding thereto a new section to read as follows:**

The Board shall adopt regulations that establish the grounds for disciplinary action for a licensed behavior analyst or autism behavior therapist.

Sec. 13. **NRS 641.170 is hereby amended to read as follows:**

641.170 1. Each application ***for licensure as a psychologist*** must be accompanied by evidence satisfactory to the Board that the applicant:

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

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

(d) Has earned a doctorate in psychology from an accredited educational institution approved by the Board, or has other doctorate-level training from an accredited educational institution deemed equivalent by the Board in both subject matter and extent of training.

(e) Has at least 2 years of experience satisfactory to the Board, 1 year of which must be postdoctoral experience in accordance with the requirements established by regulations of the Board.

2. ***Each application for licensure as a behavior analyst or autism behavior therapist must be accompanied by evidence satisfactory to the Board that the applicant:***

(a) Is at least 21 years of age.

(b) Is of good moral character as determined by the Board.

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

(d) Has completed education or training in accordance with the requirements established by regulations of the Board.

3. Within 120 days after receiving an application and the accompanying evidence from an applicant, the Board shall:

(a) Evaluate the application and accompanying evidence and determine whether the applicant is qualified pursuant to this section for licensure ~~[as a psychologist;]~~ ***;*** and

(b) Issue a written statement to the applicant of its determination.

3. The written statement issued to the applicant pursuant to subsection ~~[2]~~ ***3*** must include:

(a) If the Board determines that the qualifications of the applicant are insufficient for licensure, a detailed explanation of the reasons for that determination.

(b) If the applicant ***for licensure as a psychologist*** has not earned a doctorate in psychology from an accredited educational institution approved by the Board and the Board determines that his doctorate-level training from an accredited educational institution is not equivalent in subject matter and extent of training, a detailed explanation of the reasons for that determination.

Sec. 14. **NRS 641.180 is hereby amended to read as follows:**

641.180 1. Except as otherwise provided in this section and NRS 641.190, each applicant for a license ***as a psychologist*** must pass the Examination for the Professional Practice of Psychology in the form administered by the Association of State and Provincial Psychology Boards and approved for use in this State by the Board. In addition to this written examination, the Board may require an oral examination in whatever applied or theoretical fields it deems appropriate.

2. The examination must be given at least once a year, and may be given more often if deemed necessary by the Board. The examination must be given at a time and place, and under such supervision, as the Board may determine.

3. The Board shall notify each applicant of the results of his written examination and supply him with a copy of all material information about those results provided to the Board by the Association of State and Provincial Psychology Boards.

4. If an applicant fails the examination, he may request in writing that the Board review his examination.

5. The Board may waive the requirement of a written examination for a person who:

(a) Is licensed in another state;

(b) Has 10 years experience; and

(c) Is a diplomate in the American Board of Professional Psychology or a fellow in the American Psychological Association, or who has other equivalent status as determined by the Board.

Sec. 15. **The Board of Psychological Examiners shall begin licensing behavior analysts and autism behavior therapists pursuant to section 13 of this act no later than January 1, 2010.**

Sec. 16. **1. This act becomes effective upon passage and approval for the purpose of adopting regulations and licensing behavior analysts and autism behavior therapists.**

2. This section and sections 3 to 15, inclusive, of this act become effective on October 1, 2009.

3. Sections 1 and 2 of this act become effective on January 1, 2011.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 320.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 346.

AN ACT relating to guardianships; requiring additional information in a petition for appointment of a guardian; requiring that a proposed ward be advised of his right to counsel; revising provisions relating to the attendance of a proposed ward at a guardianship hearing; requiring a guardian to petition a court before moving a ward into certain residential facilities under certain circumstances; **making various other changes relating to guardianships;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires that a petitioner for the appointment of a guardian provide the court with an assessment completed by a licensed physician of the proposed ward's needs and limitations in capacity before the court makes a final order in the case. (NRS 159.044)

Section 2 of this bill provides that a proposed ward must be advised of his right to counsel in the guardianship proceeding ~~[.]~~ **and requires that certain information or responses provided by the ward relating to his right to counsel and to the proceeding be transmitted to the court.** (NRS 159.0485)

Existing law provides that a proposed ward found in this State must attend a hearing for the appointment of a guardian unless a certificate is signed

indicating the reasons the proposed ward cannot appear. (NRS 159.0535) **Section 3** of this bill provides that a proposed ward who is unable to attend a hearing for the appointment of a general or special guardian may attend by videoconference. **Section 3** further provides that if a proposed ward cannot attend the hearing or appear by videoconference, the court must have ~~[an agent or employee of the court or a licensed physician employed by the proposed guardian]~~ **the person who signs the certificate to excuse the proposed ward from attending the hearing** meet with the proposed ward and report back to the court regarding the proposed ward's desire for representation at the hearing, preferences if a guardianship is imposed and ~~[relevant medical]~~ **any** information ~~[.]~~ **the person believes may have limited any of the proposed ward's responses.**

Existing law provides that a guardian must file with the court annually, or at such other times the court deems appropriate, a written report on the condition of the ward and the exercise of authority and the performance of duties by the guardian. (NRS 159.081) Section 4 of this bill: (1) provides that a guardian must also file with the court a report within 10 days of moving a ward to a residential facility which provides long-term care and which restricts the ward from leaving the facility without supervision; and (2) establishes procedures for the handling of such a report following its filing.

Section ~~[4]~~ 5 of this bill requires a guardian to petition the court and receive the court's consent before moving a ward into a residential facility which **provides long-term care and** restricts the ward from leaving the facility without supervision. However, a guardian does not need to petition the court if the court has already granted the guardian the authority to move the ward to such a facility or if ~~[there is an emergency. If the guardian moves the ward to such a facility based on an emergency, the guardian must: (1) include information concerning the placement in the annual report filed by the guardian if the placement is for less than 15 days; or (2) petition the court for authorization to continue the placement if the placement is for more than 15 days.]~~ **a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of the county's office of protective services recommends the transfer in writing.** (NRS 159.113)

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

Section 1. NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed ward.

(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

➥ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation may include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State stating the need for a guardian;

(2) A letter signed by any governmental agency in this State which conducts investigations stating the need for a guardian; or

(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating the need for a guardian.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) The relationship, if any, of the petitioner to the proposed ward and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) Whether the guardianship is sought as the result of an investigation of a report of abuse or neglect that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services. As used in this paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(q) Whether the proposed ward is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

3. Before the court makes a finding pursuant to NRS 159.054, the petitioner must provide the court with an assessment of the needs of the proposed ward completed by a licensed physician which identifies the limitations of capacity of the proposed ward and how such limitations affect the ability of the proposed ward to maintain his safety and basic needs. The court may prescribe the form in which the assessment of the needs of the proposed ward must be filed.

Sec. 2. NRS 159.0485 is hereby amended to read as follows:

159.0485 1. ***At the first hearing for the appointment of a guardian, the court shall advise a proposed ward who is in attendance at the hearing or who is appearing by videoconference at the hearing of his right to counsel and determine whether the proposed ward wishes to be represented by counsel in the guardianship proceeding. If the proposed ward is not in attendance at the hearing*** ~~*[or]*~~ ***because the proposed ward has been excused pursuant to NRS 159.0535 and is not appearing by videoconference at the hearing, the*** ~~*[agent or employee of the court or the licensed physician meeting with and interviewing the proposed ward]*~~ ***person who signs the certificate pursuant to NRS 159.0535 to excuse the proposed ward from attending the hearing shall advise the proposed ward of his right to counsel and determine whether the proposed ward wishes to be represented by counsel in the guardianship proceeding.***

2. If an adult ward or proposed adult ward is unable to retain legal counsel and requests the appointment of counsel, at any stage in a guardianship proceeding and whether or not the adult ward or proposed adult ward lacks or appears to lack capacity, the court shall, at or before the time of the next hearing, appoint an attorney who works for legal aid services, if available, or a private attorney to represent the adult ward or proposed adult ward. The appointed attorney must represent the adult ward or proposed adult ward until relieved of the duty by court order.

~~[2.]~~ ***3.*** Subject to the discretion and approval of the court, the attorney for the adult ward or proposed adult ward is entitled to reasonable compensation which must be paid from the estate of the adult ward or proposed adult ward. If the court finds that a person has unnecessarily or unreasonably caused the appointment of an attorney, the court may order the person to pay to the estate of the adult ward or proposed adult ward all or part of the expenses associated with the appointment of the attorney.

Sec. 3. NRS 159.0535 is hereby amended to read as follows:

159.0535 1. A proposed ward who is found in this State must attend the hearing for the appointment of a guardian unless:

(a) A certificate signed by a physician who is licensed to practice in this State specifically states the condition of the proposed ward ***,*** ~~[and]~~ the reasons why the proposed ward is unable to appear in court ~~[,]~~ ***and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward;*** or

(b) A certificate signed by any other person the court finds qualified to execute a certificate states the condition of the proposed ward ***,*** ~~[and]~~ the reasons why the proposed ward is unable to appear in court ~~[.]~~ ***and whether the proposed ward's attendance at the hearing would be detrimental to the physical health of the proposed ward.***

2. ***A proposed ward found in this State who cannot attend the hearing for the appointment of a general or special guardian as set forth in a certificate pursuant to subsection 1 may appear by videoconference. If the proposed ward cannot attend by videoconference,*** ~~*[the court, before*~~

~~*appointing a general or special guardian, shall appoint a person who is an agent or employee of the court to meet with and interview the proposed ward. If the hearing for the appointment of a general or special guardian is held in a county whose population is less than 100,000, the court may allow a licensed physician employed by the proposed guardian to meet with and interview the proposed ward in place of an agent or employee of the court. The person who meets with and interviews the proposed ward shall submit to the court a written report about the proposed ward which includes, without limitation:*~~

~~*(a) Whether or not the proposed ward wishes]*~~ ***the person who signs the certificate pursuant to subsection 1 shall:***

(a) Inform the proposed ward that the petitioner wishes to become the guardian of the proposed ward;

(b) Ask the proposed ward for a response to the guardianship petition;

(c) Inform the proposed ward of his right to counsel and ask whether the proposed ward wishes to be represented by counsel in the guardianship proceeding; and

~~*[(b) The]*~~

(d) Ask the preferences of the proposed ward for ~~*[a]*~~ ***the appointment of a particular person as his guardian .*** ~~*[, a health care provider, housing and any other matter relevant to the guardianship; and*~~

~~*(c) Any relevant medical information.]*~~

3. The person who signs the certificate pursuant to subsection 1 shall state in the certificate:

(a) That the proposed ward has been advised of his right to counsel and asked whether he wishes to be represented by counsel in the guardianship proceeding;

(b) The responses of the proposed ward to the questions asked pursuant to subsection 2; and

(c) Any conditions that the person believes may have limited the responses by the proposed ward.

4. The court may prescribe the form in which the certificate must be filed. If the certificate consists of separate parts, each part must be signed by the person executing the certificate pursuant to subsection 1.

5. If the proposed ward is not in this State, the proposed ward must attend the hearing only if the court determines that the attendance of the proposed ward is necessary in the interests of justice.

Sec. 4. **NRS 159.081 is hereby amended to read as follows:**

159.081 1. A guardian of the person shall make and file in the guardianship proceeding for review of the court a written report on the condition of the ward and the exercise of authority and performance of duties by the guardian:

(a) Annually, not later than 60 days after the anniversary date of the appointment of the guardian; ~~[and]~~

(b) ***Within 10 days of moving a ward to a residential facility which provides long-term care and restricts the ward from leaving the facility without supervision; and***

(c) At such other times as the court may order.

2. ***A report filed pursuant to paragraph (b) of subsection 1 must:***

(a) Include a copy of the written recommendation upon which the transfer was made;

(b) Be served, without limitation, on the attorney for the ward, if any, and on the nearest advocate for residents of facilities for long-term care within the Aging Services Division of the Department of Health and Human Services; and

(c) Be accompanied by the form prescribed by the court which allows the guardian to indicate whether or not the guardian consents to have the Aging Services Division interview the ward and prepare and transmit a report to the court concerning the transfer of the ward.

3. If the guardian consents to the preparation and transmittal of the report to the court, the Aging Services Division shall prepare the report and transmit the report to the court, the guardian and the attorney for the ward, if any. In preparing the report, the Division is not required to review generally whether the ward's transfer exceeded the services provided to residents pursuant to NRS 427A.135.

4. The guardian of the person shall give to the guardian of the estate, if any, a copy of each report not later than 30 days after the date the report is filed with the court.

~~[3.]~~ ***5.*** The court is not required to hold a hearing or enter an order regarding the report.

~~[Sec. 4.]~~ ***Sec. 5.*** 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 pursuant to NRS 159.117.

(b) Continue the business of the ward pursuant to NRS 159.119.

(c) Borrow money for the ward pursuant to NRS 159.121.

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.

(f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.

(g) Exchange or partition the ward's property pursuant to NRS 159.175.

(h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.

(i) Exercise or release the power of the ward as a donee of a power of appointment.

(j) Change the state of residence or domicile of the ward.

(k) Exercise the right of the ward to take under or against a will.

(l) Transfer to a trust created by the ward any property unintentionally omitted from the trust.

(m) 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.

(n) 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.

(o) Except as otherwise provided in subsection 6, move the ward into a residential facility which provides long-term care and which restricts the ward from leaving the facility without supervision.

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. 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.

4. 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.

5. 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 complete contracts of the ward.

6. Without filing a petition pursuant to paragraph (o) of subsection 1, a guardian may move a ward into a residential facility which provides long-term care and which restricts the ward from leaving the facility without supervision [:

~~*(a) If the]*~~ ***if:***

(a) The court has previously granted the guardian authority to move the ward to such a facility based on findings made when the court appointed the general or special guardian; or

(b) ~~*[In an emergency. An emergency change of placement must be certified by a licensed physician, and such certification must be submitted to the court and served on all persons set forth in NRS 159.034 within 3 days after the emergency change of placement. If the emergency change of placement is for:*~~

~~*(1) Less than 15 days, the guardian shall describe the emergency change of placement, including the justification for such placement, in the annual report required pursuant to NRS 159.081. The guardian shall also petition the court for a review of the annual report, including the emergency change of placement, not later than 60 days after the anniversary date of the appointment of the guardian.*~~

~~*(2) Fifteen days or more, the guardian shall, on or before the 15th day of the emergency change of placement, file with the court and serve on all persons set forth in NRS 159.034 a petition seeking authorization from the court for the continued placement of the ward in the residential facility which restricts the ward from leaving the facility without supervision. The court shall hear a petition made pursuant to this subparagraph within 10 days after the petition is filed.]*~~ ***The transfer is made pursuant to a written recommendation by a licensed physician, a physician employed by the Department of Veterans Affairs, a licensed social worker or an employee of a county's office for protective services.***

7. As used in this section, "protective services" has the meaning ascribed to it in NRS 200.5092.

Assemblyman Anderson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 333.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 383.

SUMMARY—Revises certain provisions relating to ~~[the towing of]~~ **motor** vehicles. (BDR 58-835)

AN ACT relating to ~~[tow cars;]~~ **motor vehicles;** revising certain provisions relating to the towing of vehicles; **authorizing an electronic notification to the Department of Motor Vehicles of the transfer of ownership of a motor vehicle; authorizing the Department to provide certain information about the transfer of ownership of a motor vehicle to tow car operators and other interested parties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the Nevada Transportation Authority to reduce any charge for preparing or satisfying a lien which is filed by the operator of a tow car if the Authority determines that all or part of the charge

is attributable to the operator's failure to prepare or satisfy the lien in a timely manner. (NRS 706.4468)

Existing law presumes that an abandoned motor vehicle was abandoned by its registered owner. The registered owner is thus responsible for the costs of removing and disposing of the vehicle. Existing law also provides for the rebuttal of this presumption. (NRS 487.220) Section 2 of this bill provides a similar presumption, and opportunity for rebuttal, for the registered owner of a vehicle that is towed at the request of the owner of real property from which the vehicle is towed. (NRS 706.4477)

Existing law provides that if an operator of a tow car tows a motor vehicle at the request of someone other than the owner, the operator is required to notify the owner of certain information within a particular period of time. (NRS 706.4479) **Section ~~[2]~~ 3** of this bill: (1) requires such information to be provided ~~[7 days]~~ earlier than the existing law; and (2) adds to the list of the information that must be provided notice to the registered and legal owner of the vehicle as to the actions the owner may take to reduce his liability for any potentially applicable assessments, fees, penalties or other charges ~~[.]~~ **, and as to the opportunity to rebut presumptions about the ownership of a vehicle.**

Section 4 of this bill authorizes a person who transfers ownership of a motor vehicle to notify the Department of Motor Vehicles of the transfer electronically. Section 4 also authorizes the Department to provide information regarding vehicle ownership transfers to tow car operators and other interested parties. (NRS 482.400)

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

Section 1. NRS 706.4468 is hereby amended to read as follows:

706.4468 1. Each operator of a tow car shall file its charges for preparing or satisfying a lien to which the operator is entitled against a vehicle that was towed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle. The Authority ~~[may]~~ ***:***

(a) May investigate any charge filed pursuant to this subsection and revise the charge as necessary to ensure that the charge is reasonable.

(b) Shall reduce any charge filed pursuant to this subsection if the Authority determines that the charge is unreasonable because the charge is attributable, in whole or in part, to failure on the part of the operator of the tow car to prepare or satisfy his lien in a timely manner.

2. An operator of a tow car may not impose a charge or any part of a charge filed pursuant to subsection 1 unless the operator:

(a) Has initiated the procedure by which a person may satisfy a lien; and

(b) Stores the vehicle for at least 96 hours.

3. If an operator of a tow car stores a vehicle that was towed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle for at least 96 hours but not more than 336 hours, the operator may charge an amount not to exceed 50 percent of the charge approved by the Authority pursuant to subsection 1 for preparing or satisfying a lien.

4. If an operator of a tow car stores a vehicle that was towed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle for more than 336 hours, the operator may charge an amount not to exceed 50 percent of the charge approved by the Authority pursuant to subsection 1 for preparing or satisfying a lien in addition to the amount charged pursuant to subsection 3.

Sec. 2. **NRS 706.4477 is hereby amended to read as follows:**

706.4477 ***1.*** If towing is requested by a person other than the owner, or an agent of the owner, of the motor vehicle or a law enforcement officer:

~~[1.]~~ ***(a)*** The person requesting the towing must be the owner of the real property from which the vehicle is towed or his authorized agent and must sign a specific request for the towing. For the purposes of this section, the operator is not an authorized agent of the owner of the real property.

~~[2.]~~ ***(b)*** The area from which the vehicle is to be towed must be appropriately posted in accordance with state or local requirements.

~~[3.]~~ ***(c)*** Notice must be given to the appropriate law enforcement agency pursuant to state and local requirements.

~~[4.]~~ ***(d)*** The operator may be directed to terminate the towing by a law enforcement officer.

2. The registered owner of a motor vehicle towed pursuant to the provisions of subsection 1:

(a) Is presumed to have left the motor vehicle on the real property from which the vehicle is towed; and

(b) Is responsible for the cost of removal and storage of the motor vehicle.

3. The registered owner may rebut the presumption in subsection 2 by showing that:

(a) He transferred his interest in the motor vehicle:

(1) Pursuant to the provisions set forth in NRS 482.399 to 482.420, inclusive; or

(2) As indicated by a bill of sale for the vehicle that is signed by the registered owner; or

(b) The vehicle is stolen, if he submits evidence that, before the discovery of the vehicle, he filed an affidavit with the Department or a written report with an appropriate law enforcement agency alleging the theft of the vehicle.

~~[Sec. 2.]~~ ***Sec. 3.*** NRS 706.4479 is hereby amended to read as follows:

706.4479 1. If a motor vehicle is towed at the request of someone other than the owner, or authorized agent of the owner, of the motor vehicle, the

operator shall, in addition to the requirements set forth in the provisions of chapter 108 of NRS:

(a) Notify the registered and legal owner of the motor vehicle by certified mail not later than ~~[21]~~ ***14*** days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle or not later than ~~[15]~~ ~~*[8]*~~ 7 ***business*** days after placing any other vehicle in storage:

(1) Of the location where the motor vehicle is being stored;

(2) Whether the storage is inside a locked building, in a secured, fenced area or in an unsecured, open area;

(3) Of the charge for towing and storage; ~~[and]~~

(4) Of the date and time the vehicle was placed in storage ~~[.]~~ ***;*** ~~*[and]*~~

(5) Of the actions that the registered and legal owner of the vehicle may take to recover his vehicle while incurring the lowest possible liability in accrued assessments, fees, penalties or other charges ~~*[.]*~~ ***; and***

(6) Of the opportunity to rebut the presumptions set forth in NRS 487.220 and 706.4477.

(b) If the identity of the registered and legal owner is not known or readily available, make every reasonable attempt and use all resources reasonably necessary, as evidenced by written documentation, to obtain the identity of the owner and any other necessary information from the agency charged with the registration of the motor vehicle in this State or any other state within:

(1) Twenty-one days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(2) Fifteen days after placing any other motor vehicle in storage.

➥ The operator shall attempt to notify the owner of the vehicle by certified mail as soon as possible, but in no case later than 15 days after identification of the owner is obtained for any motor vehicle.

2. If an operator includes in his tariff a fee to be charged to the registered and legal owner of a vehicle for the towing and storage of the vehicle, the fee may not be charged:

(a) For more than 21 days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(b) For more than 15 days after placing any other vehicle in storage,

➥ unless the operator complies with the requirements set forth in subsection 1.

Sec. 4. **NRS 482.400 is hereby amended to read as follows:**

482.400 1. Except as otherwise provided in this subsection and subsections ~~[2, 5 and 6,]~~ ***3, 6 and 7,*** and NRS 482.247, upon a transfer of the title to, or the interest of an owner in, a vehicle registered or issued a certificate of title under the provisions of this chapter, the person or persons whose title or interest is to be transferred and the transferee shall write their signatures with pen and ink upon the certificate of title issued for the vehicle,

together with the residence address of the transferee, in the appropriate spaces provided upon the reverse side of the certificate. The Department may, by regulation, prescribe alternative methods by which a signature may be affixed upon a manufacturer's certificate of origin or a manufacturer's statement of origin issued for a vehicle. The alternative methods must ensure the authenticity of the signatures.

2. ***Within 5 days after the transfer of the title to, or the interest of an owner in, a vehicle registered or issued a certificate of title under the provisions of this chapter, the person or person whose title or interest is to be transferred may submit electronically to the Department a notice of the transfer. The Department may provide, by request and at the discretion of the Department, information submitted to the Department pursuant to this section to a tow car operator or other interested party. The Department shall adopt regulations establishing:***

(a) Procedures for electronic submissions pursuant to this section; and

(b) Standards for determining who may receive information from the Department pursuant to this section.

3. The Department shall provide a form for use by a dealer for the transfer of ownership of a vehicle. The form must be produced in a manner which ensures that the form may not be easily counterfeited. Upon the attachment of the form to a certificate of title issued for a vehicle, the form becomes a part of that certificate of title. The Department may charge a fee not to exceed the cost to provide the form.

~~[3.]~~ ***4.*** Except as otherwise provided in subsections ~~[4, 5 and 6,]~~ ***5, 6 and 7,*** the transferee shall immediately apply for registration as provided in NRS 482.215 and shall pay the governmental services taxes due.

~~[4.]~~ ***5.*** If the transferee is a dealer who intends to resell the vehicle, he is not required to register, pay a transfer or registration fee for, or pay a governmental services tax on the vehicle. When the vehicle is resold, the purchaser shall apply for registration as provided in NRS 482.215 and shall pay the governmental services taxes due.

~~[5.]~~ ***6.*** If the transferee consigns the vehicle to a wholesale vehicle auctioneer:

(a) The transferee shall, within 30 days after that consignment, provide the wholesale vehicle auctioneer with the certificate of title for the vehicle, executed as required by subsection 1, and any other documents necessary to obtain another certificate of title for the vehicle.

(b) The wholesale vehicle auctioneer shall be deemed a transferee of the vehicle for the purposes of subsection ~~[4.]~~ ***5.*** The wholesale vehicle auctioneer is not required to comply with subsection 1 if he:

(1) Does not take an ownership interest in the vehicle;

(2) Auctions the vehicle to a vehicle dealer or automobile wrecker who is licensed as such in this or any other state; and

(3) Stamps his name, his identification number as a vehicle dealer and the date of the auction on the certificate of title and the bill of sale and any other documents of transfer for the vehicle.

~~[6.]~~ ***7.*** A charitable organization which intends to sell a vehicle which has been donated to the organization must deliver immediately to the Department or its agent the certificate of registration and the license plate or plates for the vehicle, if the license plate or plates have not been removed from the vehicle. The charitable organization must not be required to register, pay a transfer or registration fee for, or pay a governmental services tax on the vehicle. When the vehicle is sold by the charitable organization, the purchaser shall apply for registration as provided in NRS 482.215 and pay the governmental services taxes due.

~~[7.]~~ ***8.*** As used in this section, "wholesale vehicle auctioneer" means a dealer who:

(a) Is engaged in the business of auctioning consigned motor vehicles to vehicle dealers or automobile wreckers, or both, who are licensed as such in this or any other state; and

(b) Does not in the ordinary course of his business buy, sell or own the vehicles he auctions.

~~[Sec. 3.]~~ ***Sec. 5.*** **1.** This **section and sections 1, 2 and 3 of this** act ~~[becomes]~~ **become** effective on July 1, 2009.

2. Section 4 of this act becomes effective on October 1, 2010.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 355.

Bill read second time.

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

Amendment No. 438.

AN ACT relating to public utilities; providing simplified procedures **and methodologies** for certain public utilities to change rates for water or sewage disposal; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1 of this bill provides simplified procedures]~~ **Existing law requires the Public Utilities Commission of Nevada to adopt regulations that provide for a simplified procedure or methodology** for certain public utilities to change rates for water or services for the disposal of sewage. (NRS 704.095) **Section 1 ~~[: (1)]~~ of this bill** modifies the requirements to qualify for ~~[the]~~ simplified procedures ~~[; (2) exempts a qualified utility from certain rate change requirements; (3) allows]~~ **and methodologies which must provide for the filing of** a letter of advice ~~[to be used]~~ for certain rate changes **. ~~[; (4) provides for a simplified application to be used for certain rate changes; (5) provides a time limit for certain decisions of the Public~~**

~~Utilities Commission of Nevada; and (6) provides, with regard to the simplified procedures, requirements related to discovery and data requests, depositions, prepared testimony and settlement conferences.]~~

Sections 3 and 4 of this bill modify the exemption for certain public utilities from certain filing and resource planning requirements. (NRS 704.110, 704.661)

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

Section 1. NRS 704.095 is hereby amended to read as follows:

704.095 ***1.*** The Commission shall adopt regulations which provide ~~[a simplified procedure or methodology]~~ ***simplified procedures or methodologies***

~~*[1. A public utility that qualifies under subsection 2 may, in its discretion, use the procedures set forth in this section]*~~ for a change of rates for those public utilities which ~~*[for water or services for the disposal of sewage.*~~

~~*2. To qualify to use the procedures set forth in this section for a change of rates for water or services for the disposal of sewage, a public utility must]*~~ furnish water or services for the disposal of sewage, or both, to persons within this State for compensation, and which:

~~[1.]~~ ***(a)*** Serve 3,000 or fewer persons; and

~~[2.]~~ ***(b)*** Had ~~*[must:*~~

~~*(a) For a change of rates for water:*~~

~~*(1) Furnish water to 3,000 or fewer persons; and*~~

~~*(2) Have had]*~~ during the immediately preceding 12-month period gross sales for water or services for the disposal of sewage ~~[, or both,]~~ amounting to ~~[~~$1,000,000~~]~~ ~~*[$3,000,000]*~~ ***$2,000,000*** or less . ~~*[; and*~~

~~*(b) For a change of rates for services for the disposal of sewage:*~~

~~*(1) Furnish services for the disposal of sewage to 3,000 or fewer persons; and*~~

~~*(2) Have had during the immediately preceding 12-month period gross sales for services for the disposal of sewage amounting to $3,000,000 or less.*~~

~~*3. If a public utility qualifies under subsection 2, the qualifying utility:*~~

~~*(a) Is exempt from the requirements of paragraphs (c) and (d) of subsection 3 of NRS 704.110 and NRS 704.661.*~~

~~*(b) May change its rates for water or services for the disposal of sewage pursuant to this section. If the qualifying utility proceeds pursuant to this section, the qualifying utility:*~~

~~*(1) Is exempt from the requirements of paragraphs (a), (f) and (h) of subsection 1 of NRS 704.100.*~~

~~*(2) May file with the Commission a letter of advice, without any related application or hearing, to change its rates if the change is a percentage change which is the same as the previous annual percentage change of the Consumer Price Index (All Items), as published by the Bureau of Labor*~~

~~*Statistics of the United States Department of Labor, or its successor, regardless of the amount the annual gross operating revenue of the qualifying utility may increase due to the change. A qualifying utility may change its rates pursuant to this paragraph not more than once per year.*~~

~~*(3) May file with the Commission a simplified application, as prescribed by the Commission, to change its rates if the change is not the same as the previous annual percentage change of the Consumer Price Index (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor, or its successor. The Commission may hold a hearing regarding the simplified application.*~~

~~*4. If a qualifying utility files a letter of advice or simplified application pursuant to subsection 3, the Commission shall, not later than 120 days following its receipt of the letter of advice or simplified application, issue a written order approving or disapproving, in whole or in part, the proposed changes in rates.*~~

~~*5. For any hearing conducted concerning a simplified application filed pursuant to this section:*~~

~~*(a) In regard to discovery before the hearing:*~~

~~*(1) Only 30 data requests, with each subpart of a larger request counting towards the total of 30, may be made of a party to the hearing unless the Commission, upon a showing of good cause, orders otherwise; and*~~

~~*(2) Depositions may not be taken of a party unless the Commission, upon a showing of good cause, orders otherwise;*~~

~~*(b) Prepared testimony is not required before the hearing unless the Commission, upon a showing of good cause, orders otherwise; and*~~

~~*(c) In regard to settlement conferences before the hearing:*~~

~~*(1) An initial settlement conference must be held not later than 45 days after the filing of an application pursuant to this section;*~~

~~*(2) A second settlement conference must be held at least 20 days before the date of the hearing; and*~~

~~*(3) The parties shall meet and confer in good faith at each settlement conference to resolve as many issues as possible.*~~

~~*6. The Commission shall adopt regulations necessary to carry out the provisions of this section.*~~

~~*7. As used in this section, "data request" means a comprehensive vehicle for obtaining discovery and includes, without limitation, interrogatories, requests for admission and requests for production of documents or inspection of property.*~~] ***If a public utility furnishes both water and services for the disposal of sewage, its gross sales for each service must be considered separately for determining whether the public utility qualifies under this paragraph for either service.***

2. The regulations adopted by the Commission pursuant to subsection 1 must provide, without limitation, for the filing of letters of advice to

change rates based on a nationally recognized inflation index approved by the Commission.

Sec. 2. ~~[NRS 704.100 is hereby amended to read as follows:~~

~~704.100 1. Except as otherwise provided in NRS 704.075~~ ***, 704.095*** ~~and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS~~ ~~[~~704.095 or~~]~~ ~~704.097:~~

~~(a) A public utility shall not make changes in any schedule, unless the public utility:~~

~~(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~~

~~(2) Files the proposed changes with the Commission using a letter of advice in accordance with the provisions of 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.~~

~~(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.~~

~~(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.~~

~~(f) Except as otherwise provided in 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:~~

~~(1) The public utility may file the proposed change with the Commission using a letter of advice in lieu of filing an application; and~~

~~(2) The Commission shall determine whether it should dispense with a hearing regarding the proposed change.~~

~~(g) If the applicant is a small-scale provider of last resort and the proposed change in any schedule will result in an increase in annual gross operating revenue, as certified by the applicant, in an amount that does not exceed $50,000 or 10 percent of the applicant's annual gross operating revenue, whichever is less, the Commission shall determine whether it should dispense with a hearing regarding the proposed change.~~

~~(h) In making the determination pursuant to 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.]~~ **(Deleted by amendment.)**

Sec. 3. NRS 704.110 is hereby amended to read as follows:

704.110 Except as otherwise provided in NRS 704.075 ~~*[, 704.095]*~~ and 704.68861 to 704.68887, inclusive, or as may otherwise be provided by the Commission pursuant to NRS 704.095 or 704.097:

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, the Consumer's Advocate shall be deemed a party of record.

2. Except as otherwise provided in subsection 3, if a public utility files with the Commission an application to make changes in any schedule, the Commission shall, not later than 210 days after the date on which the application is filed, issue a written order approving or disapproving, in whole or in part, the proposed changes.

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. The following public utilities shall each file a general rate application pursuant to this subsection based on the following schedule:

(a) An electric utility that primarily serves less densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in December 2007, and at least once every 36 months thereafter.

(b) An electric utility that primarily serves densely populated counties shall file a general rate application not later than 5 p.m. on or before the first Monday in December 2008, and at least once every 36 months thereafter.

(c) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of ~~[$500,000]~~ ***$2,000,000*** or more for at least 1 year during the immediately preceding 3 years and which had not filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2008, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. ***If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.***

(d) A public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, which had an annual gross operating revenue of ~~[$500,000]~~ ***$2,000,000*** or more for at least 1 year during the immediately preceding 3 years and which had filed a general rate application with the Commission on or after July 1, 2005, shall file a general rate application on or before June 30, 2009, and at least once every 36 months thereafter unless waived by the Commission pursuant to standards adopted by regulation of the Commission. ***If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this paragraph for either service.***

➥ The Commission shall adopt regulations setting forth standards for waivers pursuant to paragraphs (c) and (d) and for including the costs incurred by the public utility in preparing and presenting the general rate application before the effective date of any change in rates.

4. In addition to submitting the statement required pursuant to subsection 3, a public 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. The Commission shall consider expected changes in circumstances to be reasonably known and measurable with reasonable accuracy if the expected changes in circumstances consist of specific and identifiable events or programs rather than general trends, patterns or developments, have an objectively high probability of occurring to the degree, in the amount and at the time expected, are primarily measurable by recorded or verifiable revenues and expenses and are easily and objectively calculated, with the calculation of the expected changes relying only secondarily on estimates, forecasts, projections or budgets. 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, including all reasonable projected or forecasted offsets in revenue and expenses that are directly attributable to or associated with the expected changes in circumstances under consideration, 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 pursuant to NRS 704.187, if the public utility is otherwise authorized to so file by those provisions.

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 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. 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. There is no presumption of reasonableness or prudence for any quarterly rate adjustment or for any transactions or recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application, and the electric utility has the burden of proving reasonableness and prudence in the proceeding.

(e) The Commission shall not allow the electric utility to recover any recorded costs of purchased fuel and purchased power which were the result of any practice or transaction that was unreasonable or was undertaken, managed or performed imprudently by the electric utility, and the Commission shall order the electric utility to adjust its rates if the Commission determines that any recorded costs of purchased fuel and purchased power included in any quarterly rate adjustment or the annual deferred energy accounting adjustment application were not reasonable or prudent.

10. If an electric utility files an annual deferred energy accounting adjustment application 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 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.

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.

12. 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” 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” 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. 4. NRS 704.661 is hereby amended to read as follows:

704.661 1. A ~~*[Except as otherwise provided in NRS 704.095, a]*~~ public utility that furnishes water for municipal, industrial or domestic purposes or services for the disposal of sewage, or both, and which had an annual gross operating revenue of $1,000,000 or more for at least 1 year during the immediately preceding 3 years shall, on or before March 1 of every third year, in the manner specified by the Commission, submit a plan to the Commission to provide sufficient water or services for the disposal of sewage to satisfy the demand made on its system by its customers. ***If a public utility furnishes both water and services for the disposal of sewage, its annual gross operating revenue for each service must be considered separately for determining whether the public utility meets the requirements of this subsection for either service.***

2. The Commission shall adopt regulations to provide for the contents of and the method and schedule for preparing, submitting, reviewing and approving ~~[the]~~ ***a*** plan ~~[required]~~ ***submitted*** pursuant to subsection 1.

3. Within 180 days after a public utility has filed a plan pursuant to subsection 1, the Commission shall issue an order accepting the plan as filed or specifying any portion of the plan it finds to be inadequate.

4. If a plan submitted pursuant to subsection 1 and accepted by the Commission pursuant to subsection 3 and any regulations adopted pursuant to subsection 2 identifies a facility for acquisition or construction, the facility shall be deemed to be a prudent investment and the public utility may recover all just and reasonable costs of planning and constructing or acquiring the facility.

5. All prudent and reasonable expenditures made by a public utility to develop a plan filed pursuant to subsection 1, including, without limitation, any environmental, engineering or other studies, must be recovered from the rates charged to the public utility's customers.

Sec. 5. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 370.

Bill read second time.

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

Amendment No. 538.

AN ACT relating to pharmacies; providing for the establishment of remote sites, satellite consultation sites and telepharmacies; requiring the State Board

of Pharmacy to adopt regulations for the operation of such establishments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the issuance of a license to an applicant to conduct a pharmacy upon compliance with all licensing requirements. (NRS 639.231) This bill authorizes the establishment of remote sites and satellite consultation sites for the dispensing of prescriptions, and telepharmacies, which are connected to such sites via computer link, video link and audio link to enable a registered pharmacist at the telepharmacy to oversee the dispensing of prescriptions to patients at a remote site or satellite consultation site.

Section 6 of this bill requires a remote site or satellite consultation site to be located at least 50 miles from the nearest pharmacy and **in a service area with a total population of less than 2,000. Section 6 also** authorizes such sites to be operated by a pharmaceutical technician. **Section 6 further requires the State Board of Pharmacy to adopt regulations which establish the manner of determining a "service area." Sections 8 and 9** of this bill exempt those sites from the requirement that every pharmacy must be managed by a registered pharmacist. (NRS 639.220, 639.284)

Section 5 of this bill requires the State Board of Pharmacy to adopt regulations for the operation of remote sites, satellite consultation sites and telepharmacies.

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

Section 1. Chapter 639 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. ***"Remote site" means a pharmacy staffed by a pharmaceutical technician and equipped to facilitate communicative access to a pharmacy and its registered pharmacists via computer link, video link and audio link during regular business hours.***

Sec. 3. ***"Satellite consultation site" means a site that only dispenses filled prescriptions which are prepared at a pharmacy and delivered to that site and where a registered pharmacist at the pharmacy that prepared the prescription provides consultation to patients via computer link, video link and audio link during regular business hours.***

Sec. 4. ***"Telepharmacy" means a pharmacy that is accessible by a remote site or a satellite consultation site via computer link, video link and audio link.***

Sec. 5. ***The Board shall adopt regulations as are necessary for the safe and efficient operation of remote sites, satellite consultation sites and telepharmacies.***

Sec. 6. ***1. In addition to the requirements set forth in this chapter and any other specific statute, a remote site or satellite consultation site must be located*** ~~*[at]*~~ **:**

(a) At least 50 miles or more from the nearest pharmacy [.] ; and

(b) In a service area with a total population of less than 2,000.

2. A remote site or satellite consultation site may be operated by a pharmaceutical technician without the physical presence of a managing pharmacist, except that the managing pharmacist of the telepharmacy shall also be deemed the managing pharmacist of the remote site or satellite consultation site.

3. The Board shall adopt regulations for the purposes of this section, which establish the manner of determining a "service area." Such a "service area" must be a geographical area of between 5 and 10 miles in radius. In adopting the regulations, the Board may consider, without limitation, the ease or difficulty of access to the nearest pharmacy and the availability of roadways.

Sec. 7. NRS 639.001 is hereby amended to read as follows:

639.001 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 639.0015 to 639.016, inclusive, ***and sections 2, 3 and 4 of this act*** have the meanings ascribed to them in those sections.

Sec. 8. NRS 639.220 is hereby amended to read as follows:

639.220 1. Except as otherwise provided in NRS 639.2324, 639.2326 [and] ***,*** 639.2327 [.] ***and section 6 of this act,*** each pharmacy must be managed by a registered pharmacist, approved by the Board, who is responsible for compliance by the pharmacy and its personnel with all state and federal laws and regulations relating to the operation of the pharmacy and the practice of pharmacy.

2. Except as otherwise provided in NRS 639.2321, if the managing pharmacist is the only registered pharmacist employed in the pharmacy, the Board may authorize his absence each day for a total period of not to exceed 2 hours for the purpose of taking meals if:

(a) A registered pharmacist is on call during his absence;

(b) A sign, as prescribed by regulations of the Board, is posted for public view in the pharmacy indicating the absence of the pharmacist and the hours of his absence; and

(c) All drugs, poisons, chemical and restricted devices are kept safe in a manner prescribed by regulations of the Board.

➥ The authorization required from the Board must be in writing and be retained in the pharmacy and available for inspection.

3. Except as otherwise provided in this subsection [.] ***and section 6 of this act:***

(a) A person shall not act as a managing pharmacist for more than one licensed pharmacy.

(b) Each managing pharmacist shall be on duty in the pharmacy and active in the management of the pharmacy full-time, but he need not be present during the time the pharmacy is open for business if he designates another pharmacist employed in the pharmacy to assume his duties in his absence.

(c) The managing pharmacist is responsible for the activities of his designee.

➥ A waiver from the limitation set forth in paragraph (a) may be granted by the Board to the managing pharmacist of a pharmacy located in a hospital with fewer than 100 beds or in a correctional institution housing fewer than 1,500 inmates.

4. The Board must be notified before there is a change in the managing pharmacist.

Sec. 9. NRS 639.284 is hereby amended to read as follows:

639.284 ~~[~~Any~~]~~ ***Except as otherwise provided in section 6 of this act, any*** person who:

1. Being the licensed proprietor of a pharmacy, fails to place a registered pharmacist in charge of such pharmacy, or permits the compounding or dispensing of drugs or prescriptions, or the selling of drugs, poisons or devices, the sale of which is restricted by the provisions of this chapter, by any person other than a registered pharmacist or an intern pharmacist, is guilty of a misdemeanor.

2. Is not a registered pharmacist and who takes charge of or acts as manager of any pharmacy, compounds or dispenses any prescription, or sells any drug, poison or device, the sale of which is restricted by the provisions of this chapter, is guilty of a misdemeanor.

Sec. 10. The State Board of Pharmacy shall, on or before January 1, 2010, adopt any regulations which are required by or necessary to carry out the provisions of this act.

Sec. 11. This act becomes effective on July 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 395.

Bill read second time.

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

Amendment No. 518.

AN ACT relating to state employees; authorizing discussions of workplace relations for certain state employees; ~~[~~changing the name of the Local Government Employee-Management Relations Board to the Public Employment Relations Board;~~]~~ expanding the duties of the ~~[~~Board~~]~~ **Personnel Commission** to include discussions of workplace relations for certain state employees; providing for workplace relations units of state employees and for their representatives; establishing procedures for discussing workplace relations and for making and amending workplace relations agreements; prohibiting certain unfair labor practices; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Title 23 of NRS governs public employment. This bill authorizes discussions of workplace relations between the State and certain state employees. ~~[Section 46 of this bill renames the Local Government Employee-Management Relations Board as the Public Employment Relations Board.]~~ **Sections 18-20** of this bill expand the duties of the ~~[Public Employment Relations Board]~~ **Personnel Commission** to include hearing and deciding disputes between the State and certain state employees. **Section 21** of this bill authorizes certain state employees to organize and join employee organizations, or refrain from engaging in that activity, and, as applicable, to discuss workplace relations through exclusive representatives. **Section 22** of this bill establishes requirements concerning workplace relations agreements. **Sections 24 and 25** of this bill prescribe certain unfair labor practices in the context of discussions of workplace relations. **Section 27** of this bill provides for the creation and organization of workplace relations units of state employees. **Sections 28-31** of this bill provide for the election or designation of exclusive representatives of workplace relations units. **Section 32** of this bill requires the exclusive representative of a workplace relations unit to engage in discussions of workplace relations with the Executive Department of the State Government on behalf of the employees within the unit.

Section 34 of this bill requires the Executive Department and an exclusive representative to begin negotiations regarding a workplace relations agreement within 60 days after one party notifies the other of a desire to negotiate. **Sections 35-38** of this bill provide for mediation, arbitration and judicial review of disputes between the Executive Department and a workplace relations unit. **Section 40** of this bill authorizes certain supplemental discussions between the Executive Department and the exclusive representative of a workplace relations unit of any terms and conditions of employment that do not affect all the employees of the workplace relations unit. **Section 44.3 of this bill revises the authority of the Governor to appoint the members of the Personnel Commission by requiring the Majority Leader of the Senate and the Speaker of the Assembly to each appoint one of the members to the Commission. (NRS 284.030)**

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

Section 1. Title 23 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 42, inclusive, of this act.

Sec. 2. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 16, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Arbitration" means a process of dispute resolution where the parties involved in an impasse or grievance dispute submit their dispute to a third party for a final and binding decision.***

Sec. 4. ~~***[***"Board" means the Public Employment Relations Board created pursuant to NRS 288.080.***]***~~ **(Deleted by amendment.)**

Sec. 4.5. "Commission" means the Personnel Commission created by NRS 284.030.

Sec. 5. ***"Confidential employee" means an employee who provides administrative support to an employee who assists in the formulation, determination and effectuation of personnel policies or managerial policies concerning discussions of workplace relations or supplemental discussions of workplace relations.***

Sec. 6. ***"Discussions of workplace relations" means a method to determine the terms and conditions of employment for all employees within a workplace relations unit through negotiation, mediation or arbitration between the Executive Department and the exclusive representative of the workplace relations unit pursuant to this chapter.***

Sec. 7. ***1. "Employee" means a person who:***

(a) Is employed in the classified service of the State pursuant to chapter 284 of NRS, including, without limitation, persons employed in the classified service by the Nevada System of Higher Education; or

(b) Is employed by the Public Employees' Retirement System and who is required to be paid in accordance with the pay plan for the classified service of the State.

2. The term does not include:

(a) A managerial employee whose primary function, as determined by the ~~***[Board,]***~~ ***Commission, is to administer and control the business of any agency, board, bureau, commission, department, division, elected officer or any other unit of the Executive Department and who is vested with discretion and independent judgment with regard to the general conduct and control of that agency, board, bureau, commission, department, division, elected officer or unit;***

(b) An elected official and any person appointed to fill a vacancy in an elected office;

(c) A confidential employee;

(d) A temporary employee who is employed for a fixed period of 4 months or less;

(e) A commissioned officer and an enlisted member of the Nevada National Guard;

(f) A justice of the Supreme Court and a judge of a district court;

(g) Inmates of state institutions even though they may be receiving compensation for services performed for the institution; or

(h) Any person employed by the Legislature.

Sec. 8. ***"Exclusive representative" means an employee organization that, as a result of designation by the*** ~~***[Board,]***~~ ***Commission, has the***

exclusive right to represent all employees within a workplace relations unit and to negotiate with the Executive Department pursuant to this chapter concerning the terms and conditions of employment for those employees.

Sec. 9. ***"Executive Department" means an agency, board, bureau, commission, department, division, elected officer or any other unit of the Executive Department of State Government.***

Sec. 10. ***"Fair share agreement" means an agreement between an employer and an exclusive representative under which any of the employees in a workplace relations unit are required to pay a proportionate share of the costs of discussions of workplace relations, the administration of a workplace relations agreement and the negotiation of other matters affecting the terms and conditions of employment.***

Sec. 11. ***"Grievance" means an act, omission or occurrence which an employee or an exclusive representative constitutes in his belief an injustice relating to any condition arising out of the relationship between an employer and an employee, including, without limitation, working hours, working conditions, membership in an organization of employees or the interpretation of any law, regulation or agreement.***

Sec. 12. ***"Mediation" means assistance by an impartial third party to reconcile differences between the Executive Department and an exclusive representative through interpretation, suggestion and advice.***

Sec. 13. ***"Professional employee" means an employee engaged in work that:***

1. Is predominately intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;

2. Involves the consistent exercise of discretion and judgment in its performance;

3. Is of such a character that the result accomplished or produced cannot be standardized in relation to a given period; and

4. Requires advanced knowledge in a field of science or learning customarily acquired through a prolonged course of specialized intellectual instruction and study in an institution of higher learning, as distinguished from general academic education, an apprenticeship or training in the performance of routine mental or physical processes.

Sec. 14. ***"Supervisory employee" means an employee who has authority to:***

1. Hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or who has the responsibility to direct such employees; or

2. Adjust the grievances of other employees or effectively recommend such an action, if the exercise of that authority requires the use of independent judgment and is not of a routine or clerical nature.

➥ The exercise of such authority shall not be deemed to place the employee in supervisory employee status unless the exercise of such authority occupies a significant portion of the employee's workday. Nothing in this

section may be construed to mean that an employee who has been given incidental administrative duties is classified as a supervisory employee.

Sec. 15. ***"Terms and conditions of employment" includes, without limitation:***

1. Hours and working conditions;

2. Grievances;

3. Discipline and discharge; and

4. Any other term or condition of employment that does not require an appropriation from the Legislature to be given effect.

Sec. 16. ***"Workplace relations unit" means a collection of employees that the ~~[Board]~~ Commission has established as a workplace relations unit pursuant to section 27 of this act.***

Sec. 17. ***1. The Legislature hereby finds and declares that there is a great need to:***

(a) Promote orderly and constructive relations between the State and its employees; and

(b) Increase the efficiency of State Government.

2. It is therefore within the public interest that the Legislature enact provisions:

(a) Granting certain state employees the right to associate with others in organizing and choosing representatives for the purpose of discussing workplace relations;

(b) Requiring the State to recognize, negotiate and discuss workplace relations with employee organizations that represent state employees and to enter into written agreements evidencing the result of discussions of workplace relations; and

(c) Establishing standards and procedures that protect the rights of state employees, the Executive Department and the people of the State.

Sec. 18. ***1. The ~~[Board]~~ Commission may adopt rules governing:***

(a) Proceedings before ~~[it,]~~ the Commission pursuant to this chapter;

(b) Procedures for fact-finding;

(c) The recognition of exclusive representatives;

(d) The establishment of workplace relations units; and

(e) Such other matters as are necessary for the ~~[Board]~~ Commission to carry out its duties pursuant to this chapter.

2. The ~~[Board]~~ Commission may hear and determine any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by the Executive Department, an employee or an exclusive representative. The ~~[Board]~~ Commission shall conduct a hearing within 90 days after it decides to hear a complaint. If the ~~[Board]~~ Commission finds, after a hearing, that the complaint has merit, the ~~[Board]~~ Commission may order any person to refrain from the action complained of or to restore to the party aggrieved any benefit of which he has been deprived by that action. The ~~[Board]~~ Commission shall issue its decision within 120 days after the hearing on the complaint is completed.

3. Any party aggrieved by the failure of any person to obey an order of the ~~[Board]~~ Commission issued pursuant to subsection 2, or the ~~[Board]~~ Commission at the request of such a party, may apply to a court of competent jurisdiction for a prohibitory or mandatory injunction to enforce the order.

4. The ~~[Board]~~ Commission may not consider any complaint or appeal filed more than 6 months after the occurrence which is the subject of the complaint or appeal.

5. The ~~[Board]~~ Commission may decide without a hearing a contested matter:

(a) In which all of the legal issues have been previously decided by the ~~[Board,]~~ Commission, if it adopts its previous decision or decisions as precedent; or

(b) Upon agreement of all the parties.

6. The ~~[Board]~~ Commission may award reasonable costs, which may include attorney's fees, to the prevailing party.

Sec. 19. ***1. For the purpose of hearing and deciding appeals or complaints, the ~~[Board]~~ Commission may issue subpoenas requiring the attendance of witnesses before it, together with all books, memoranda, papers and other documents relative to the matters under investigation, administer oaths and take testimony thereunder.***

2. The district court in and for the county in which any hearing is being conducted by the ~~[Board]~~ Commission may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the ~~[Board.]~~ Commission.

3. If a witness refuses to attend or testify or produce any papers required by such a subpoena, the ~~[Board]~~ Commission 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 this chapter; and

(c) That the witness has failed and refused to attend or produce the papers required by the subpoena before the ~~[Board]~~ Commission in the hearing named in the subpoena, or has refused to answer questions propounded to him in the course of such hearing,

➥ and asking for an order of the court compelling the witness to attend and testify or produce the books or papers before the ~~[Board.]~~ Commission.

4. The court, upon petition of the ~~[Board,]~~ Commission, 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 after the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the ~~[Board.]~~ Commission. A certified copy of the order must be served upon the witness.

If it appears to the court that the subpoena was regularly issued by the ~~[Board,]~~ Commission, the court shall thereupon enter an order that the witness appear before the ~~[Board]~~ Commission 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 must be dealt with as for contempt of court.

Sec. 20. ***Every hearing and determination of an appeal or complaint by the ~~[Board]~~ Commission is a contested case subject to the provisions of law which govern the administrative decision and judicial review of such cases.***

Sec. 21. ***1. For the purposes of discussions of workplace relations, supplemental discussions of workplace relations and other mutual aid or protection, employees have the right to:***

(a) Organize, form, join and assist employee organizations, engage in discussions of workplace relations and supplemental discussions of workplace relations through exclusive representatives and engage in other concerted activities; and

(b) Refrain from engaging in such activity.

2. Discussions of workplace relations and supplemental discussions of workplace relations entail a mutual obligation of the Executive Department and an exclusive representative to meet at reasonable times and to discuss workplace relations in good faith with respect to:

(a) The terms and conditions of employment;

(b) The negotiation of an agreement;

(c) The resolution of any question arising under an agreement; and

(d) The execution of a written contract incorporating the provisions of an agreement, if requested by either party.

Sec. 22. ***1. Each workplace relations agreement must be in writing and must include, without limitation:***

(a) A procedure to resolve grievances which culminates in final and binding arbitration;

(b) A provision which provides that an officer of the Executive Department may, upon written authorization by an employee within the workplace relations unit, withhold a sufficient amount of money from the salary or wages of the employee pursuant to NRS 281.129 to pay dues or similar fees to the exclusive representative of the workplace relations unit; and

(c) At the election of the exclusive representative, and notwithstanding any other provision of law, a fair share agreement.

2. Except as otherwise provided in subsection 3, the procedure to resolve grievances required in an agreement pursuant to paragraph (a) of subsection 1 is the exclusive means available for resolving grievances related to the administration of the agreement.

3. An employee in a workplace relations unit may pursue a grievance related to any disciplinary action taken against him by his employer through:

(a) The procedure provided in the agreement pursuant to paragraph (a) of subsection 1; or

(b) Any procedure available to him pursuant to the provisions of chapter 284 of NRS,

↳ but once the employee has properly filed his grievance pursuant to paragraph (a) or (b), he may not proceed to file his grievance in the alternative manner.

4. If there is a conflict between a provision of an agreement between the Executive Department and an exclusive representative and:

(a) Any regulation adopted by the Executive Department, the provision of the agreement prevails unless the provision of the agreement is outside of the lawful scope of discussions of workplace relations.

(b) An existing statute, the provision of the agreement may not be given effect unless the Legislature amends the existing statute in such a way as to eliminate the conflict.

Sec. 23. ***1. A fair share agreement included in a workplace relations agreement pursuant to section 22 of this act must not be for an amount exceeding the amount of dues uniformly required of members.***

2. An amount agreed to be paid pursuant to a fair share agreement must not include any fees for contributions relating to the election or support of any candidate for political office.

3. This section does not prohibit an employee from making voluntary political contributions in conjunction with his payment pursuant to a fair share agreement.

Sec. 24. ***1. It is a prohibited practice for the Executive Department or its designated representative willfully to:***

(a) Refuse to engage in discussions of workplace relations or otherwise fail to discuss workplace relations in good faith with an exclusive representative, including, without limitation, refusing to engage in mediation or arbitration.

(b) Interfere with, restrain or coerce an employee in the exercise of any right guaranteed pursuant to this chapter.

(c) Dominate, interfere with or assist in the formation or administration of an employee organization.

(d) Discriminate in regard to hiring, tenure or any terms and conditions of employment to encourage or discourage membership in an employee organization.

(e) Discharge or otherwise discriminate against an employee because the employee has:

(1) Signed or filed an affidavit, petition or complaint or has provided any information or given any testimony pursuant to this chapter; or

(2) Formed, joined or chosen to be represented by an employee organization.

(f) Discriminate because of race, color, religion, sex, sexual orientation, age, disability, national origin, or political or personal reasons or affiliations.

(g) Deny rights accompanying a designation as an exclusive representative.

2. It is a prohibited practice for an employee organization or its designated agent willfully to:

(a) When acting as an exclusive representative, refuse to engage in discussions of workplace relations or otherwise fail to discuss workplace relations in good faith with the Executive Department, including, without limitation, refusing to engage in mediation or arbitration.

(b) Interfere with, restrain or coerce an employee in the exercise of any right guaranteed pursuant to this chapter.

(c) Discriminate because of race, color, religion, sex, sexual orientation, age, disability, national origin, or political or personal reasons or affiliations.

Sec. 25. ***1. To establish that a party committed a prohibited practice in violation of section 24 of this act, the party aggrieved by the practice must:***

(a) File a complaint with the ~~[Board]~~ Commission not later than 6 months after the alleged prohibited practice occurred; and

(b) Send a copy of the complaint to the other party by certified mail, return receipt requested, or by any other method authorized by the ~~[Board.]~~ Commission.

2. Not later than 10 days after receiving a complaint pursuant to paragraph (b) of subsection 1, a party shall file a response to the complaint with the ~~[Board.]~~ Commission.

3. The ~~[Board]~~ Commission shall conduct a preliminary investigation of the complaint. Based on its investigation:

(a) If the ~~[Board]~~ Commission determines that the complaint has no basis in law or fact, the ~~[Board]~~ Commission shall dismiss the complaint.

(b) If the ~~[Board]~~ Commission determines that the complaint may have a basis in law or fact, the ~~[Board]~~ Commission shall order a hearing to be conducted in accordance with:

(1) The provisions of chapter 233B of NRS that apply to a contested case; and

(2) The rules adopted by the ~~[Board]~~ Commission pursuant to section 18 of this act.

4. If the ~~[Board]~~ Commission finds at the hearing that the party accused in the complaint has committed a prohibited practice, the ~~[Board:]~~ Commission:

(a) Shall order the party to cease and desist from engaging in the prohibited practice; and

(b) May order any other affirmative relief that is necessary to remedy the prohibited practice.

5. The ~~[Board]~~ Commission may petition the district court for enforcement of its orders.

6. Any order or decision issued by the ~~[Board]~~ Commission pursuant to this section concerning the merits of a complaint is a final decision in a contested case and may be appealed pursuant to the provisions of chapter 233B of NRS that apply to a contested case, except that a party aggrieved by the order or decision of the ~~[Board]~~ Commission must file a petition for judicial review not later than 10 days after being served with the order or decision of the ~~[Board.]~~ Commission.

Sec. 26. ***1. The ~~[Board]~~ Commission may appoint a hearing officer to conduct a hearing that the ~~[Board]~~ Commission is otherwise required to conduct pursuant to section 25 of this act.***

2. A decision of the hearing officer may be appealed to the ~~[Board.]~~ Commission.

3. On appeal to the ~~[Board,]~~ Commission, the ~~[Board]~~ Commission may consider the record of the hearing or may conduct a hearing de novo. A hearing de novo conducted by the ~~[Board]~~ Commission must be conducted in accordance with:

(a) The provisions of chapter 233B of NRS that apply to a contested case; and

(b) The rules adopted by the ~~[Board]~~ Commission pursuant to section 18 of this act.

4. If the ~~[Board]~~ Commission finds at the hearing that the party accused in the complaint has committed a prohibited practice, the ~~[Board:]~~ Commission:

(a) Shall order the party to cease and desist from engaging in the prohibited practice; and

(b) May order any other affirmative relief that is necessary to remedy the prohibited practice.

5. The ~~[Board]~~ Commission may petition the district court for enforcement of its orders.

6. Any order or decision issued by the ~~[Board]~~ Commission pursuant to this section concerning the merits of a complaint is a final decision in a contested case and may be appealed pursuant to the provisions of chapter 233B of NRS that apply to a contested case, except that a party aggrieved by the order or decision of the ~~[Board]~~ Commission must file a petition for judicial review not later than 10 days after being served with the order or decision of the ~~[Board.]~~ Commission.

Sec. 27. ***1. The ~~[Board]~~ Commission shall, in accordance with the rules adopted pursuant to section 18 of this act, establish workplace relations units on a statewide basis, including, without limitation, the workplace relations units described in subsection 2.***

2. The ~~[Board]~~ Commission shall establish one workplace relations unit for each of the following occupational groups, and each such workplace relations unit must include all supervisory employees at the working level of the occupational group:

(a) Labor, maintenance, custodial and institutional employees, including, without limitation, employees of penal and correctional institutions who are not responsible for security at those institutions.

(b) Administrative and clerical employees, including, without limitation, legal support staff and employees whose work involves general office work, or keeping or examining records and accounts.

(c) Technical aides to professional employees, including, without limitation, computer programmers, tax examiners, conservation employees and crew supervisors.

(d) Professional employees, including, without limitation, physical therapists and other employees in medical and other professions related to health.

(e) Employees, other than professional employees, who provide health care and personal care, including, without limitation, employees who provide care for children.

(f) Category I peace officers and category II peace officers.

(g) Category III peace officers.

(h) Supervisory employees not otherwise included in other workplace relations units.

(i) Employees of the Nevada System of Higher Education, except such employees who are category I peace officers.

(j) Employees of the State Department of Conservation and Natural Resources who:

(1) Perform emergency fire suppression; or

(2) Provide direct support to the employees described in subparagraph (1).

3. The ~~[Board]~~ Commission shall, in accordance with the rules adopted pursuant to section 18 of this act, establish the exact classifications of employees within each workplace relations unit. The ~~[Board]~~ Commission may assign a new classification to a workplace relations unit based upon the similarity of the new classification to other classifications within the workplace relations unit.

4. The ~~[Board]~~ Commission shall not change an established workplace relations unit arbitrarily.

5. The ~~[Board]~~ Commission shall determine whether the employment functions of any group of employees performing managerial functions preclude the inclusion of those employees in a workplace relations unit.

6. As used in this section:

(a) "Category I peace officer" has the meaning ascribed to it in NRS 289.460.

(b) "Category II peace officer" has the meaning ascribed to it in NRS 289.470.

(c) "Category III peace officer" has the meaning ascribed to it in NRS 289.480.

Sec. 28. ***If no employee organization is designated as the exclusive representative of a workplace relations unit and an employee organization files with the [Board] Commission a list of its membership showing that the employee organization represents more than 50 percent of the employees within the workplace relations unit, the [Board] Commission shall designate the employee organization as the exclusive representative of the workplace relations unit without ordering an election.***

Sec. 29. ***1. If no employee organization is designated as the exclusive representative of a workplace relations unit, the [Board] Commission shall order an election to be conducted within the workplace relations unit if:***

(a) An employee organization files with the [Board] Commission a written request for an election which includes a list of its membership showing that it represents at least 30 percent but not more than 50 percent of the employees within the workplace relations unit; and

(b) No other election to choose, change or discontinue representation has been conducted within the workplace relations unit during the preceding 12 months.

2. If the [Board] Commission designates an employee organization as the exclusive representative of a workplace relations unit following an election pursuant to subsection 1 or pursuant to section 28 of this act, the [Board] Commission shall order an election:

(a) If either:

(1) Another employee organization files with the [Board] Commission a written request for an election which includes a list of its membership showing that the employee organization represents at least 50 percent of the employees within the workplace relations unit; or

(2) A group of employees within the workplace relations unit files with the [Board] Commission a written request for an election which includes a list showing that more than 50 percent of the employees within the workplace relations unit have requested that an election be conducted to change or discontinue representation;

(b) If applicable, the request filed pursuant to paragraph (a) is filed not more than 270 days and not less than 225 days before the date on which the current workplace relations agreement in effect for the workplace relations unit expires; and

(c) If no other election to choose, change or discontinue representation has been conducted within the workplace relations unit during the preceding 12 months.

Sec. 30. ***1. If the [Board] Commission orders an election within a workplace relations unit pursuant to section 29 of this act, the [Board]***

***Commission** shall order that each of the following be placed as a choice on the ballot for the election:*

(a) If applicable, the employee organization that requested the election pursuant to section 29 of this act and the employee organization that is presently designated as the exclusive representative of the workplace relations unit;

*(b) Any other employee organization that, on or before the date that is prescribed by the rules adopted by the ~~[Board,]~~ **Commission,** files with the ~~[Board]~~ **Commission** a written request to be placed on the ballot for the election and includes with the written request a list of its membership showing that the employee organization represents at least 30 percent of the employees within the workplace relations unit; and*

(c) A choice for "no representation."

*2. If a ballot for an election contains more than two choices and none of the choices on the ballot receives a majority of the votes cast at the initial election, the ~~[Board]~~ **Commission** shall order a runoff election between the two choices on the ballot that received the highest number of votes at the initial election.*

*3. If the choice for "no representation" receives a majority of the votes cast at the initial election or at any runoff election, the ~~[Board]~~ **Commission** shall designate the workplace relations unit as being without representation.*

*4. If an employee organization receives a majority of the votes cast at the initial election or at any runoff election, the ~~[Board]~~ **Commission** shall designate the employee organization as the exclusive representative of the workplace relations unit.*

Sec. 31. *1. The ~~[Board]~~ **Commission** shall preside over all elections that are conducted pursuant to this chapter and shall determine the eligibility requirements for employees to vote in any such election.*

*2. An employee organization that is placed as a choice on the ballot for an election or any employee who is eligible to vote at an election may file with the ~~[Board]~~ **Commission** a written objection to the results of the election. The objection must be filed not later than 10 days after the date on which the notice of the results of the election is given by the ~~[Board.]~~ **Commission.***

*3. In response to a written objection filed pursuant to subsection 2 or upon its own motion, the ~~[Board]~~ **Commission** may invalidate the results of an election and order a new election if the ~~[Board]~~ **Commission** finds that any conduct or circumstances raise substantial doubt that the results of the election are reliable.*

Sec. 32. *1. Except as otherwise provided in subsection 2, an exclusive representative shall:*

(a) Act as the agent and exclusive representative of all employees within each workplace relations unit that it represents; and

(b) In good faith and on behalf of each workplace relations unit that it represents, individually or collectively, engage in discussions of workplace relations with the Executive Department concerning the terms and conditions of employment for the employees within each workplace relations unit that it represents, including, without limitation, any terms and conditions of employment that are within the scope of supplemental discussions of workplace relations pursuant to section 40 of this act.

2. If an employee is within a workplace relations unit that has an exclusive representative, the employee has the right to present grievances to the Executive Department at any time and to have those grievances adjusted without the intervention of the exclusive representative if:

(a) The exclusive representative is given an opportunity to be present at any meetings or hearings related to the adjustment of the grievance; and

(b) The adjustment of the grievance is not inconsistent with the provisions of the workplace relations agreement or any supplemental workplace relations agreement then in effect.

Sec. 33. ***If the ~~[Board]~~ Commission designates an employee organization as the exclusive representative of a workplace relations unit pursuant to this chapter, an officer of the Executive Department shall not, pursuant to NRS 281.129, withhold any amount of money from the salary or wages of an employee within the workplace relations unit to pay dues or similar fees to an employee organization other than the employee organization that is the exclusive representative of the workplace relations unit.***

Sec. 34. ***The Executive Department and an exclusive representative shall begin negotiations concerning a workplace relations agreement within 60 days after one party notifies the other party of the desire to negotiate.***

Sec. 35. ***1. If the parties do not reach a workplace relations agreement within 120 days after the date on which the parties began negotiations or any later date which is set by agreement of the parties, either party may request a mediator from the Federal Mediation and Conciliation Service.***

2. The mediator shall bring the parties together as soon as possible after his appointment and shall attempt to settle each issue in dispute within 30 days after his appointment or any later date which is set by agreement of the parties.

Sec. 36. ***1. If the mediator determines that his services are no longer helpful or if the parties do not reach a workplace relations agreement through mediation within 30 days after the appointment of the mediator or any later date which is set by agreement of the parties, the mediator shall discontinue mediation and the parties shall attempt to agree upon an impartial arbitrator.***

2. If the parties do not agree upon an impartial arbitrator within 5 days after the date on which mediation is discontinued pursuant to subsection 1

or on or before any later date which is set by agreement of the parties, the parties shall request from the Federal Mediation and Conciliation Service a list of seven potential arbitrators. The parties shall select an arbitrator from this list by alternately striking one name until the name of only one arbitrator remains, and that arbitrator must hear the dispute in question. The party who will strike the first name must be determined by a coin toss.

3. The arbitrator shall begin arbitration proceedings within 60 days after his selection or any later date which is set by agreement of the parties.

4. The arbitrator and the parties shall apply and follow the procedures for arbitration that are prescribed by the rules adopted by the ~~[Board.]~~ Commission. During arbitration, the parties retain their respective duties to negotiate in good faith.

5. The arbitrator may administer oaths or affirmations, take testimony and issue and seek enforcement of subpoenas in the same manner as the ~~[Board]~~ Commission pursuant to section 19 of this act, and, except as otherwise provided in subsection 6, the provisions of section 19 of this act apply to subpoenas issued by the arbitrator.

6. The Executive Department and the exclusive representative shall each pay one-half of the cost of arbitration.

Sec. 37. ***1. For each separate issue that is in dispute after arbitration proceedings are held pursuant to section 36 of this act, the arbitrator shall incorporate either the final offer of the Executive Department or the final offer of the exclusive representative into his decision. The arbitrator shall not revise or amend the final offer of either party on any issue.***

2. To determine which final offers to incorporate into his decision, the arbitrator shall assess the reasonableness of:

(a) The position of each party as to each issue in dispute; and

(b) The contractual terms and provisions contained in each final offer.

3. In assessing reasonableness pursuant to subsection 2, the arbitrator shall:

(a) Compare the terms and conditions of employment for the employees within the workplace relations unit with the terms and conditions of employment for other employees performing similar services and for other employees generally:

(1) In public employment in comparable communities; and

(2) In private employment in comparable communities; and

(b) Consider, without limitation, such other factors as are normally or traditionally used as part of discussions of workplace relations, mediation, arbitration or other methods of dispute resolution to determine the terms and conditions of employment for employees in public or private employment.

4. The arbitrator shall render a written decision within 45 days after the conclusion of the arbitration proceedings or before any later date which is set by agreement of the parties.

5. Except as otherwise provided in section 38 of this act, each provision that is included in a decision of the arbitrator is final and binding upon the parties.

Sec. 38. ***1. Except as otherwise provided in this section, a party may seek judicial review in the district court of the decision of an arbitrator made pursuant to section 37 of this act based upon jurisdictional grounds or upon the grounds that the decision:***

(a) Was procured by fraud, collusion or other similar unlawful means; or

(b) Was not supported by competent, material and substantial evidence on the whole record and based upon the factors set forth in section 37 of this act.

2. If a party seeks judicial review pursuant to this section, the district court may stay the contested portion of the decision of the arbitrator until the court rules on the matter.

3. The district court may affirm or reverse the contested portion of the decision of the arbitrator, in whole or in part, but the court may not remand the matter to the arbitrator or require any additional fact-finding or decision making by the arbitrator.

4. If the district court reverses any part of the contested portion of the decision of the arbitrator, the court shall enter an order invalidating that part of the decision of the arbitrator, and that part of the decision of the arbitrator is void and must not be given effect.

Sec. 39. ***1. If a provision of a workplace relations agreement does not require an amendment to existing statute by the Legislature to be given effect, the provision becomes effective pursuant to the provisions of the workplace relations agreement.***

2. If a provision of the workplace relations agreement requires an amendment to existing statute by the Legislature to be given effect, the provision becomes effective, if at all, on the date on which the necessary amendment to existing statute becomes effective.

Sec. 40. ***1. Except as otherwise provided in this section, the Executive Department and the exclusive representative of the workplace relations unit may engage in supplemental discussions of workplace relations concerning any terms and conditions of employment which are peculiar to or which uniquely affect fewer than all the employees within the workplace relations unit if such supplemental terms and conditions of employment are not included in any provision of the workplace relations agreement then in effect between the Executive Department and the workplace relations unit.***

2. The Executive Department and an exclusive representative may engage in supplemental discussions of workplace relations pursuant to subsection 1 for fewer than all the employees within two or more workplace relations units that the exclusive representative represents if the

requirements of subsection 1 are met for each such workplace relations unit.

3. If the parties reach a supplemental workplace relations agreement pursuant to this section, the provisions of the supplemental workplace relations agreement:

(a) Must be in writing; and

(b) Shall be deemed to be incorporated into the provisions of each workplace relations agreement then in effect between the Executive Department and the employees who are subject to the supplemental workplace relations agreement if the provisions of the supplemental workplace relations agreement do not conflict with the provisions of the workplace relations agreement.

4. If any provision of the supplemental workplace relations agreement conflicts with any provision of the workplace relations agreement, the provision of the supplemental workplace relations agreement is void and the provision of the workplace relations agreement must be given effect.

5. The provisions of the supplemental workplace relations agreement expire at the same time as the other provisions of the workplace relations agreement into which they are incorporated.

6. The Executive Department and an exclusive representative may, during discussions of workplace relations conducted pursuant to this chapter, negotiate and include in a workplace relations agreement any terms and conditions of employment that would otherwise be within the scope of supplemental workplace relations conducted pursuant to this section.

Sec. 41. ***1. Except as otherwise provided by specific statute, an employee organization and the Executive Department may sue or be sued as an entity pursuant to this chapter.***

2. If any action or proceeding is brought by or against an employee organization pursuant to this chapter, the district court in and for the county in which the employee organization maintains its principal office or the county in which the claim arose has jurisdiction over the claim.

3. A natural person and his assets are not subject to liability for any judgment awarded pursuant to this chapter against the Executive Department or an employee organization.

Sec. 42. ***The terms of any workplace relations agreement remain in effect until a new workplace relations agreement takes effect.***

Sec. 43. NRS 281.129 is hereby amended to read as follows:

281.129 1. Any officer of the State, except the Legislative Fiscal Officer, who disburses money in payment of salaries and wages of officers and employees of the State:

(a) May, upon written requests of the officer or employee specifying amounts, withhold those amounts and pay them to:

(1) Charitable organizations;

(2) Employee credit unions;

(3) Except as otherwise provided in paragraph (b), insurers;

(4) The United States for the purchase of savings bonds and similar obligations of the United States; and

(5) ~~[Employee]~~ ***Except as otherwise provided in section 33 of this act, employee*** organizations and labor organizations.

(b) Shall, upon receipt of information from the Public Employees' Benefits Program specifying amounts of premiums or contributions for coverage by the Program, withhold those amounts from the salaries or wages of officers and employees who participate in the Program and pay those amounts to the Program.

2. The State Controller may adopt regulations necessary to withhold money from the salaries or wages of officers and employees of the Executive Department.

Sec. 44. NRS 284.013 is hereby amended to read as follows:

284.013 1. Except as otherwise provided in subsection 4, this chapter does not apply to:

(a) Agencies, bureaus, commissions, officers or personnel in the Legislative Department or the Judicial Department of State Government, including the Commission on Judicial Discipline;

(b) Any person who is employed by a board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS; or

(c) Officers or employees of any agency of the Executive Department of the State Government who are exempted by specific statute.

2. Except as otherwise provided in subsection 3, the terms and conditions of employment of all persons referred to in subsection 1, including salaries not prescribed by law and leaves of absence, including, without limitation, annual leave and sick and disability leave, must be fixed by the appointing or employing authority within the limits of legislative appropriations or authorizations.

3. Except as otherwise provided in this subsection, leaves of absence prescribed pursuant to subsection 2 must not be of lesser duration than those provided for other state officers and employees pursuant to the provisions of this chapter. The provisions of this subsection do not govern the Legislative Commission with respect to the personnel of the Legislative Counsel Bureau.

4. Any board, commission, committee or council created in chapters 590, 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 652, 654 and 656 of NRS which contracts for the services of a person, shall require the contract for those services to be in writing. The contract must be approved by the State Board of Examiners before those services may be provided.

5. To the extent that they are inconsistent or otherwise in conflict, the provisions of this chapter do not apply to any terms and conditions of employment that are properly within the scope of and subject to the provisions of a workplace relations agreement or a supplemental workplace relations agreement that is enforceable pursuant to the provisions of

sections 2 to 42, inclusive, of this act. As used in this subsection, "terms and conditions of employment" has the meaning ascribed to it in section 15 of this act.

Sec. 44.3. **NRS 284.030 is hereby amended to read as follows:**

284.030 ~~[1.]~~ There is hereby created in the Department a personnel commission composed of five members appointed ~~[by the Governor.~~

~~2.]~~ ***as follows:***

1. The Governor shall appoint:

(a) ~~[Three members]~~ ***One member*** who ~~[are representatives]~~ ***is a representative*** of the general public and ~~[have]~~ ***has*** a demonstrated interest in or knowledge of the principles of public personnel administration.

(b) One member who is a representative of labor and has a background in personnel administration.

(c) One member who is a representative of employers or managers and has a background in personnel administration.

2. The Majority Leader of the Senate shall appoint one member who is a representative of the general public and has a demonstrated interest in or knowledge of the principles of public personnel administration.

3. The Speaker of the Assembly shall appoint one member who is a representative of the general public and has a demonstrated interest in or knowledge of the principles of public personnel administration.

Sec. 44.5. **NRS 284.040 is hereby amended to read as follows:**

284.040 1. The members of the Commission ~~[shall]~~ serve at the pleasure of the ~~[Governor,]~~ ***appointing authority,*** but no appointment ~~[shall]~~ ***may*** extend beyond a period of 4 years ~~[from]~~ ***after*** the date of expiration of the preceding appointment.

2. Continued absence from meetings ~~[shall constitute]~~ ***constitutes*** good and sufficient cause for removal of a member by the ~~[Governor.]~~ ***appointing authority.***

Sec. 44.7. **NRS 284.065 is hereby amended to read as follows:**

284.065 1. The Commission has only such powers and duties as are authorized by law.

2. In addition to the powers and duties set forth elsewhere in this chapter ~~[,]~~ ***and sections 2 to 42, inclusive, of this act,*** the Commission shall:

(a) Advise the Director concerning the organization and administration of the Department.

(b) Report to the Governor biennially on all matters which the Commission may deem pertinent to the Department and concerning any specific matters previously requested by the Governor.

(c) Advise and make recommendations to the Governor ~~[or]~~ ***and*** the Legislature relative to the personnel policy of the State.

(d) Adopt regulations to carry out the provisions of this chapter.

(e) Foster the interest of institutions of learning and of civic, professional and employee organizations in the improvement of personnel standards in the state service.

(f) Review decisions of the Director in contested cases involving the classification or allocation of particular positions.

(g) Exercise any other advisory powers necessary or reasonably implied within the provisions and purposes of this chapter.

Sec. 45. ~~[NRS 288.030 is hereby amended to read as follows:~~

~~288.030 "Board" means the [Local Government Employee-Management] *Public Employment* Relations Board.]~~ **(Deleted by amendment.)**

Sec. 46. ~~[NRS 288.080 is hereby amended to read as follows:~~

~~288.080 1. The [Local Government Employee-Management] *Public Employment* Relations Board is hereby created, consisting of three members, broadly representative of the public and not closely allied with any employee organization *, the State* or *any* local government employer, not more than two of whom may be members of the same political party. The term of office of each member is 4 years.~~

~~2. The Governor shall appoint the members of the Board.]~~ **(Deleted by amendment.)**

Sec. 46.5. **The terms of the members of the Personnel Commission appointed by the Governor pursuant to paragraphs (a), (b) and (c) of subsection 2 of NRS 284.030 expire on June 30, 2009.**

Sec. 46.7. **As soon as practicable on or after July 1, 2009:**

1. The Governor shall appoint members to the Personnel Commission pursuant to paragraphs (a), (b) and (c) of subsection 1 of NRS 284.030, as amended by section 44.3 of this act.

2. The Majority Leader of the Senate shall appoint a member to the Personnel Commission pursuant to subsection 2 of NRS 284.030, as amended by section 44.3 of this act.

3. The Speaker of the Assembly shall appoint a member to the Personnel Commission pursuant to subsection 3 of NRS 284.030, as amended by section 44.3 of this act.

Sec. 47. **1.** This **section and section 46.5 of this act become effective upon passage and approval.**

2. Sections 1 to 46, inclusive, and 46.7 of this act ~~[becomes]~~ **become** effective on July 1, 2009.

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 409.

Bill read second time.

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

Amendment No. 536.

AN ACT relating to public employees; requiring the Local Government Employee-Management Relations Board to conduct certain hearings using certain hearing officers; revising provisions governing the appointment of

members to the Board; ~~[eliminating the Board's authority to appoint certain officers;]~~ revising the periods within which the Board must hear and decide certain complaints; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Local Government Employee-Management Relations Board has exclusive jurisdiction to hear and determine complaints brought by local government employers, local government employees or employee organizations concerning various aspects of collective bargaining. (NRS 288.110) The Board also has jurisdiction to consider appeals filed by employee organizations that are aggrieved by the determinations of local government employers concerning which employee groups may constitute bargaining units for purposes of collective bargaining. (NRS 288.170) **Section 3** of this bill requires the Board to conduct the proceedings concerning such complaints or appeals using **a** hearing ~~[officers assigned by the Hearings Division of the Department of Administration.]~~ **officer selected by the parties from a list of arbitrators obtained from the Federal Mediation and Conciliation Service or by appointing the Commissioner of the Board to serve as hearing officer.** **Section 4** of this bill requires a hearing officer to prepare and submit to the Board a record of the proceedings concerning the complaint or appeal and to include in the record **findings of fact, proposed conclusions of law and** a proposed decision or order. **Section 5** of this bill requires the Board to issue its final decision or order upon the completion of its review of the record submitted by the hearing ~~[officers.]~~ **officer.** **Section 11** of this bill requires the Board to issue its final decision not later than 1 year after the filing of a complaint if the matter is heard by a hearing officer and not later than 180 days after the filing of a complaint if the Board **hears the complaint in the absence of an evidentiary hearing or** decides a contested matter without a hearing. (NRS 288.110)

Under existing law, the Board may not consider any complaint or appeal that is filed more than 6 months after the occurrence which is the subject of the complaint or appeal. (NRS 288.110) **Section 11** of this bill reduces this period to 180 days.

Section 7 of this bill requires that ~~[the final]~~ **each** decision or order of the Board in any complaint or appeal must be consistent with the decisions or orders previously issued by the Board in similar cases unless the Board includes in ~~[a final]~~ **the** decision or order an analysis of each previous case that has been cited to the Board which establishes that the decision or order issued in that case is erroneous or is inapposite to or distinguishable from the decision or order in the complaint or appeal at issue.

Section 7.5 of this bill requires the Board to charge and collect a fee, not to exceed $200, for the filing of a complaint or appeal with the Board or for the filing of any other pleading that constitutes the initial appearance of a party in such a proceeding.

Under existing law, the Local Government Employee-Management Relations Board consists of three members who are appointed by the Governor. (NRS 288.080) **Section 9** of this bill provides that the Governor, the Majority Leader of the Senate and the Speaker of the Assembly shall each appoint one member of the Board.

~~[Section 10 of this bill eliminates the Board's authority under existing law to employ a Commissioner and a Secretary. (NRS 288.090) Sections 13-18 of this bill eliminate various references to the Commissioner. (NRS 288.034, 288.190, 288.200, 288.201, 288.202, 288.203)]~~

Section 10.5 of this bill increases the salary that a member of the Board is entitled to receive from a maximum of $80 to a maximum of $150 for each day in which he is engaged in the business of the Board.

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

Section 1. Chapter 288 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[7,]~~ **7.5,** inclusive, of this act.

Sec. 2. ~~[***"Hearing officer" means a hearing officer, appeals officer or special appeals officer assigned by the Chief of the Hearings Division of the Department of Administration to conduct hearings in contested matters on behalf of the Board.***]~~ **(Deleted by amendment.)**

Sec. 3. ***1.*** ~~*[Except as otherwise provided in subsection 5 of NRS 288.110, if]*~~ ***If the Board decides to hear and determine any complaint or appeal filed with the Board pursuant to this chapter*** ~~*[,]*~~ ***that requires the taking of testimony or other evidence, the Board shall*** ~~*[request that the Chief of the Hearings Division of the Department of Administration assign]*~~ ***appoint a hearing officer to conduct the proceedings concerning the complaint or appeal on behalf of the Board.*** ~~*[The Board shall include in its request a short and plain statement of the matters at issue.*~~

~~*2. The Chief of the Hearings Division of the Department of Administration shall assign a hearing officer within 30 days after he receives the request.*~~

~~*3. A hearing officer assigned pursuant to this section must be an attorney admitted to practice in this State.*~~

~~*4. The Board shall, within the limits of legislative appropriations, reimburse the Department of Administration for the services of a hearing officer at a rate not to exceed $100 per hour.]*~~

2. Except as otherwise provided in this section, the Board shall appoint as its hearing officer the person selected by the parties from a list of seven arbitrators obtained from the Federal Mediation and Conciliation Service. The parties shall alternately strike one name from the list until the name of only one person remains. The parties must determine by the toss of a coin which party will strike the first name. Each party shall pay one-half of the fee charged by the hearing officer appointed pursuant to this subsection.

3. The Board shall appoint the Commissioner to act as the hearing officer for a complaint or appeal if both parties request the appointment.

4. The Board may appoint the Commissioner to act as the hearing officer for a complaint or appeal at the request of one party if the party demonstrates to the satisfaction of the Board that the payment of the party's share of a fee charged by a hearing officer appointed by the Board pursuant to subsection 2 is likely to impose an undue financial burden or hardship on the party. In determining whether to appoint the Commissioner to act as a hearing officer, the Board shall consider the complexity of the matters in dispute that are likely to affect the amount of the fee charged by a hearing officer appointed pursuant to subsection 2 and any factor that is relevant to the party's ability to pay the fee, including, without limitation, the size or membership of the party, its financial resources, and any budgetary or other financial constraints.

Sec. 4. ***1.*** ~~*[The Board shall, upon the assignment of a hearing officer:*~~

~~*(a) Notify the parties to the complaint or appeal of his assignment; and*~~

~~*(b) Submit to the hearing officer the original complaint or appeal filed with the Board and any other pleadings, correspondence and other documents concerning the complaint or appeal that are in the Board's possession.*~~

~~*2. The]*~~ ***A hearing officer appointed by the Board shall:***

(a) Conduct the proceedings concerning the complaint or appeal on behalf of the Board in accordance with the procedures established by this chapter, chapter 233B of NRS and any other applicable statutes and regulations;

(b) Commence the hearing on the complaint or appeal within 60 days after his ~~*[assignment; and]*~~ ***appointment;***

(c) Prepare findings of fact and proposed conclusions of law on every material issue, based on the evidence and arguments presented to him and shall prepare a proposed order or decision consistent with his findings and conclusions, the provisions of this chapter and the regulations of the Board and any relevant prior order or decision of the Board; and

(d) Prepare , provide to each party and submit to the Board for its review the record of the proceedings not later than 60 days after the conclusion of the hearing. The record must comply with NRS 233B.121 and include, without limitation, findings of fact, proposed conclusions of law and a proposed decision or order that complies with NRS 233B.125. Each party shall pay one-half of the cost to prepare the record, including, without limitation, the cost to prepare a transcript of any oral proceedings.

~~*[3.]*~~ ***2. A party to any complaint or appeal is entitled to be represented at any hearing conducted pursuant to this section by counsel, by an elected or appointed representative of the party, or both. A nonattorney representative of an employee organization must be a member of the organization.***

Sec. 5. ***1. The Board shall review the record of the proceedings in any complaint or appeal submitted to it by a hearing officer, including, without limitation, the proposed decision or order of the hearing officer. In conducting its review of the proposed decision or order, the Board:***

(a) Shall confine its review to the record submitted by the hearing officer. If the Board determines, on its own motion or on the motion of any party, that additional evidence must be taken on any issue, the Board shall remand the matter to the hearing officer.

(b) May not substitute its judgment for that of the hearing officer as to any finding of fact that is supported by substantial evidence.

2. Upon completion of its review, the Board may:

(a) Approve the proposed decision or order of the hearing officer, with or without modification; or

(b) Reject the proposed decision or order and remand the complaint or appeal to the hearing officer for further proceedings.

3. If the Board modifies or rejects the proposed decision or order of the hearing officer, including, without limitation, any finding of fact or proposed conclusion of law separately stated therein, the Board must fully set forth in its final decision or order the factual and legal basis for its modification [.] or rejection.

4. The Board shall issue its final decision or order in any complaint or appeal not later than 60 days after it receives the completed record from the hearing officer.

Sec. 6. ***Except as otherwise provided in subsection 4 of NRS 288.110 or specifically ordered by the Board, the parties to any proceeding may by stipulation waive any limitation of time set forth in NRS 288.110 and sections [3,] 4 and 5 of this act.***

Sec. 7. ***[The final] Each decision or order of the Board in any complaint or appeal must be consistent with the decisions or orders previously issued by the Board in similar cases unless the Board includes in [a final] the decision or order an analysis of each previous case that has been cited to the Board which establishes that the decision or order issued in that case is erroneous or is inapposite to or distinguishable from the decision or order in the case at issue.***

Sec. 7.5. 1. Except as otherwise provided in this section, the Board shall charge and collect a fee, not to exceed $200, for the filing of a complaint or appeal with the Board or for the filing of any other pleading that constitutes the initial appearance of a party in such a proceeding. The Board shall establish the amount of the fee by regulation.

2. The Board may, at the request of a party, waive the filing fee if payment of the fee would cause a financial hardship to a party or would be otherwise inconsistent with the purposes of this chapter.

3. All fees and other money received by the Board pursuant to the provisions of this chapter must be deposited in banks, credit unions or savings and loan associations in the State of Nevada and expended solely

for the purposes of this chapter. The money so deposited does not revert to the State General Fund.

Sec. 8. ~~[NRS 288.020 is hereby amended to read as follows:~~

~~288.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 288.025 to 288.075, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.]~~ **(Deleted by amendment.)**

Sec. 9. NRS 288.080 is hereby amended to read as follows:

288.080 1. The Local Government Employee-Management Relations Board is hereby created, consisting of three members, broadly representative of the public and not closely allied with any employee organization or local government employer, not more than two of whom may be members of the same political party. ***Each member of the Board must, at the time of his appointment, have at least 5 years of experience in the field of labor-management relations.***

2. The term of office of each member is 4 years ~~[.~~

~~2.]~~ ***, but a member shall continue to serve after the expiration of his term until his successor is appointed.*** ~~*[A member of the Board may not serve more than 2 terms.]*~~

3. The Governor ***, the Majority Leader of the Senate and the Speaker of the Assembly*** shall ***each*** appoint ~~[the members]~~ ***one member*** of the Board.

Sec. 10. NRS 288.090 is hereby amended to read as follows:

288.090 1. The members of the Board shall annually elect one of their number as Chairman and one as Vice Chairman. Any two members of the Board constitute a quorum.

2. The Board may, within the limits of legislative appropriations :

(a) Appoint a Commissioner and a Secretary, who ~~[shall]~~ ***must*** be in the unclassified service of the State; and

(b) Employ such additional ~~*[, employ such]*~~ clerical personnel as may be necessary, who ~~[shall]~~ ***must*** be in the classified service of the State.

3. The Commissioner must, at the time of his appointment, have at least 3 years of experience in the field of labor-management relations.

Sec. 10.5. **NRS 288.100 is hereby amended to read as follows:**

288.100 1. Each member of the Board is entitled to receive a salary of not more than ~~[$80,]~~ ***$150,*** as fixed by the Board, for each day in which he is engaged in the business of the Board.

2. While engaged in the business of the Board, each member and employee of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 11. NRS 288.110 is hereby amended to read as follows:

288.110 1. The Board may make rules governing:

(a) Proceedings before it;

(b) Procedures for fact-finding;

(c) The recognition of employee organizations; and

(d) The determination of bargaining units.

2. The Board may hear and determine any complaint arising out of the interpretation of, or performance under, the provisions of this chapter by any local government employer, local government employee or employee organization. ~~[The Board shall conduct a hearing within 90 days after it decides to hear a complaint.]~~ The Board, after a hearing ~~, *[conducted pursuant to section 4 of this act,]*~~ if it finds that the complaint is well taken, may order any person to refrain from the action complained of or to restore to the party aggrieved any benefit of which he has been deprived by that action. The Board shall issue its decision within ~~[120 days]~~ ***180 days after the filing of the complaint unless the Board appoints a hearing officer pursuant to section 3 of this act to conduct an evidentiary hearing, in which case the Board shall issue its decision within 1 year*** after the ~~[hearing on]~~ ***filing of*** the complaint **.** ~~[is completed.]~~

3. Any party aggrieved by the failure of any person to obey an order of the Board issued pursuant to subsection 2, or the Board at the request of such a party, may apply to a court of competent jurisdiction for a prohibitory or mandatory injunction to enforce the order.

4. The Board may not consider any complaint or appeal filed more than ~~[6 months]~~ ***180 days*** after the occurrence which is the subject of the complaint or appeal.

5. The Board may decide without a hearing a contested matter:

(a) In which all of the legal issues have been previously decided by the Board, if it adopts its previous decision or decisions as precedent; or

(b) Upon agreement of all the parties.

➥ ***The Board shall issue its decision within 180 days after the filing of the complaint or appeal in the contested matter.***

6. The Board may award reasonable costs, which may include attorneys' fees, to the prevailing party.

Sec. 12. NRS 288.120 is hereby amended to read as follows:

288.120 1. For the purpose of hearing and deciding appeals or complaints, the Board ***, and a hearing officer on behalf of the Board,*** may issue subpoenas requiring the attendance of witnesses before ~~[it,]~~ ***the Board or hearing officer,*** together with all books, memoranda, papers and other documents relative to the matters under investigation, administer oaths and take testimony thereunder.

2. The district court in and for the county in which any hearing is being conducted by the Board ***or hearing officer*** may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the Board ~~[.]~~ ***or hearing officer.***

3. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, the Board ***or hearing officer*** 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 this chapter; and

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the Board ***or hearing officer*** in the hearing 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 Board ~~[.]~~ ***or hearing officer.***

4. The court, upon petition of the Board ~~[,]~~ ***or hearing officer,*** 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 Board ~~[.]~~ ***or hearing officer.*** A certified copy of the order shall be served upon the witness. If it appears to the court that the subpoena was regularly issued by the Board ~~[,]~~ ***or hearing officer,*** the court shall thereupon enter an order that the witness appear before the Board ***or hearing officer*** 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. 13. ~~[~~NRS 288.190 is hereby amended to read as follows:

288.190 ~~Except in cases to which NRS 288.205 and 288.215 apply:~~

~~1. Anytime before March 1, the dispute may be submitted to a mediator, if both parties agree. Anytime after March 1, either party involved in negotiations may request a mediator. If the parties do not agree upon a mediator, the [~~Commissioner~~] ***Board*** shall submit to the parties a list of seven potential mediators. The parties shall select their mediator from the list by alternately striking one name until the name of only one mediator remains, who will be the mediator to hear the dispute. The employee organization shall strike the first name.~~

~~2. If mediation is agreed to or requested pursuant to subsection 1, the mediator must be selected at the time the parties agree upon a mediator or, if the parties do not agree upon a mediator, within 5 days after the parties receive the list of potential mediators from the [~~Commissioner.~~] ***Board.***~~

~~3. The mediator shall bring the parties together as soon as possible and, unless otherwise agreed upon by the parties, attempt to settle the dispute within 30 days after being notified of his selection as mediator. He may establish the times and dates for meetings and compel the parties to attend but has no power to compel the parties to agree.~~

~~4. The local government employer and employee organization each shall pay one half of the cost of mediation. Each party shall pay its own costs of preparation and presentation of its case in mediation.~~

~~5. If the dispute is submitted to a mediator and then submitted to a fact finder, the mediator shall, within 15 days after the last meeting between the~~

~~parties, give to the [Commissioner of the] Board a report of the efforts made to settle the dispute.]~~ **(Deleted by amendment.)**

Sec. 14. ~~[NRS 288.200 is hereby amended to read as follows:~~

~~288.200—Except in cases to which NRS 288.205 and 288.215, or NRS 288.217 apply:~~

~~1.—If:~~

~~(a) The parties have participated in mediation and by April 1, have not reached agreement; or~~

~~(b) The bargaining unit represented by the employee organization contains fewer than 30 persons,~~

~~", either party to the dispute, at any time after April 1, may submit the dispute to an impartial fact finder for his findings and recommendations. His findings and recommendations are not binding on the parties except as provided in subsections 5, 6 and 9. The mediator of a dispute may also be chosen by the parties to serve as the fact finder.~~

~~2.—If the parties are unable to agree on an impartial fact finder within 5 days, either party may request from the American Arbitration Association or the Federal Mediation and Conciliation Service a list of seven potential fact finders. If the parties are unable to agree upon which arbitration service should be used, the Federal Mediation and Conciliation Service must be used. Within 5 days after receiving a list from the applicable arbitration service, the parties shall select their fact finder from this list by alternately striking one name until the name of only one fact finder remains, who will be the fact finder to hear the dispute in question. The employee organization shall strike the first name.~~

~~3.—The local government employer and employee organization each shall pay one-half of the cost of fact-finding. Each party shall pay its own costs of preparation and presentation of its case in fact finding.~~

~~4.—A schedule of dates and times for the hearing must be established within 10 days after the selection of the fact finder pursuant to subsection 2, and the fact finder shall report his findings and recommendations to the parties to the dispute within 30 days after the conclusion of the fact-finding hearing.~~

~~5.—The parties to the dispute may agree, before the submission of the dispute to fact-finding, to make the findings and recommendations on all or any specified issues final and binding on the parties.~~

~~6.—If the parties do not agree on whether to make the findings and recommendations of the fact finder final and binding, either party may request the formation of a panel to determine whether the findings and recommendations of a fact finder on all or any specified issues in a particular dispute which are within the scope of subsection 9 are to be final and binding. The determination must be made upon the concurrence of at least two members of the panel and not later than the date which is 30 days after the date on which the matter is submitted to the panel, unless that date is extended by the [Commissioner of the] Board. Each panel shall, when~~

~~making its determination, consider whether the parties have bargained in good faith and whether it believes the parties can resolve any remaining issues. Any panel may also consider the actions taken by the parties in response to any previous fact finding between these parties, the best interests of the State and all its citizens, the potential fiscal effect both within and outside the political subdivision, and any danger to the safety of the people of the State or a political subdivision.~~

~~7. Except as otherwise provided in subsection 8, any fact finder, whether his recommendations are to be binding or not, shall base his recommendations or award on the following criteria:~~

~~(a) A preliminary determination must be made as to the financial ability of the local government employer based on all existing available revenues as established by the local government employer and within the limitations set forth in NRS 354.6241, with due regard for the obligation of the local government employer to provide facilities and services guaranteeing the health, welfare and safety of the people residing within the political subdivision.~~

~~(b) Once the fact finder has determined in accordance with paragraph (a) that there is a current financial ability to grant monetary benefits, he shall use normal criteria for interest disputes regarding the terms and provisions to be included in an agreement in assessing the reasonableness of the position of each party as to each issue in dispute and he shall consider whether the Board found that either party had bargained in bad faith.~~

~~➥ The fact finder's report must contain the facts upon which he based his determination of financial ability to grant monetary benefits and his recommendations or award.~~

~~8. Any sum of money which is maintained in a fund whose balance is required by law to be:~~

~~(a) Used only for a specific purpose other than the payment of compensation to the bargaining unit affected; or~~

~~(b) Carried forward to the succeeding fiscal year in any designated amount, to the extent of that amount,~~

~~➥ must not be counted in determining the financial ability of a local government employer and must not be used to pay any monetary benefits recommended or awarded by the fact finder.~~

~~9. The issues which may be included in a panel's order pursuant to subsection 6 are:~~

~~(a) Those enumerated in subsection 2 of NRS 288.150 as the subjects of mandatory bargaining, unless precluded for that year by an existing collective bargaining agreement between the parties; and~~

~~(b) Those which an existing collective bargaining agreement between the parties makes subject to negotiation in that year.~~

~~➥ This subsection does not preclude the voluntary submission of other issues by the parties pursuant to subsection 5.~~] **(Deleted by amendment.)**

Sec. 15. ~~[NRS 288.201 is hereby amended to read as follows:~~

~~288.201 Any request for the formation of a panel to determine whether the findings and recommendations of a fact finder must be final and binding must be filed with the~~ **[**~~Commissioner.~~**]** ***Board.*** ~~The request must include:~~

~~1. A list of the issues which remain unresolved and the position of each party regarding those issues;~~

~~2. The requester's assessment of the fiscal effect on the local government of the requester's positions;~~

~~3. An outline of any previous fact-finding between the parties, which includes any recommendations and awards of a fact finder and the actions of each party in response thereto;~~

~~4. A statement of whether the parties engaged in mediation regarding the current dispute;~~

~~5. A schedule of the dates and times set by the fact finder for the hearing; and~~

~~6. Any other information deemed necessary by the~~ **[**~~Commissioner.~~**]** ***Board.***

~~Any person filing such a request shall give written notice of the request to the Nevada State Board of Accountancy and the State Bar of Nevada.~~**]** **(Deleted by amendment.)**

Sec. 16. ~~**[**NRS 288.202 is hereby amended to read as follows:~~

~~288.202 1. Within 5 days after receiving notice of such a request, the Nevada State Board of Accountancy and the State Bar of Nevada shall each submit to the~~ **[**~~Commissioner~~**]** ~~***Board*** and each party to the dispute a list of names of five of their members who would serve on a panel and are not closely allied with any employee association or local government employer.~~

~~2. Within 8 days after receiving the lists, the parties shall choose one name from each list by alternately striking one name until the names of only one attorney and one accountant remain, who will each be a member of the panel. The parties shall choose the member from the list of accountants separately from their choice from the list of attorneys. The parties shall notify the~~ **[**~~Commissioner~~**]** ~~***Board*** of their selections and he shall notify the attorney and accountant selected.~~

~~3. Within 5 days after receiving notice of their selection, the attorney and accountant shall:~~

~~(a) Choose the third member of the panel, who must:~~

~~(1) Be willing to serve on the panel;~~

~~(2) Be a resident of this State; and~~

~~(3) Not be closely allied with any employee organization or local government employer.~~

~~(b) Notify the~~ **[**~~Commissioner~~**]** ~~***Board*** of their choice, and the three members shall, within 5 days after selecting the third member of the panel, notify the~~ **[**~~Commissioner~~**]** ~~***Board*** of the dates when they will all be available to attend hearings.~~

~~4. [The Commissioner shall serve as a nonvoting member and also] *The members of the panel shall elect one of the members to serve* as the chairman of the panel.~~

~~5. If the accountant or attorney selected to serve on the panel is unable to do so, the Nevada State Board of Accountancy or State Bar of Nevada shall designate a person to replace its nominee. If the person selected by the accountant and attorney is unable to serve, they shall designate a person to replace him. [If the Commissioner is unable to serve, the Governor shall designate a person to serve in his capacity.]]~~ **(Deleted by amendment.)**

Sec. 17. ~~[NRS 288.203 is hereby amended to read as follows:~~

~~288.203 1. Each person [, except the Commissioner,] who serves on a panel formed pursuant to NRS 288.201 is entitled to receive as compensation:~~

~~(a) One hundred fifty dollars for each day he is engaged in the business of the panel; and~~

~~(b) The per diem allowance and travel expenses provided for state officers and employees generally.~~

~~2. All claims which arise pursuant to this section must be paid from the reserve for Statutory Contingency Account upon approval by the [Commissioner] *Board* and the State Board of Examiners.]~~ **(Deleted by amendment.)**

Sec. 18. ~~[NRS 288.034 is hereby repealed.]~~ **(Deleted by amendment.)**

Sec. 19. Notwithstanding the provisions of NRS 288.080, as amended by section 9 of this act:

1. The term of office of a member of the Local Government Employee-Management Relations Board who is serving in that capacity on June 30, 2009, ends on that date.

2. As soon as practicable after the effective date of this act:

(a) The Governor shall appoint, as successor to one member of the Board, a member whose term of office begins on July 1, 2009, and ends on June 30, 2011.

(b) The Majority Leader of the Senate shall appoint, as successor to one member of the Board, a member whose term of office begins on July 1, 2009, and ends on June 30, 2012.

(c) The Speaker of the Assembly shall appoint, as successor to one member of the Board, a member whose term of office begins on July 1, 2009, and ends on June 30, 2013.

~~[3. A person who has served as a member of the Local Government Employee-Management Relations Board on or after February 2, 2009, and on or before June 30, 2009, may not be appointed to the Board.]~~

Sec. 20. The provisions of sections 2 to ~~[7,]~~ 7.5, inclusive, of this act and the amendatory provisions of section 11 of this act do not apply to any complaint or appeal that was filed with the Board before the effective date of this act except to the extent that the parties, with the consent of the Board, may agree to their application.

Sec. 21. This act becomes effective upon passage and approval.

~~[~~

~~**TEXT OF REPEALED SECTION**~~

~~**288.034 "Commissioner" defined.** "Commissioner" means the Commissioner appointed by the Board.~~**]**

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Bobzien moved that Assembly Bill No. 409, upon return from the printer, be rereferred to the Committee on Ways and Means.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 442.

Bill read second time.

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

Amendment No. 545.

AN ACT relating to lobbying; **[**~~prohibiting~~**]** **requiring** an entity of the Executive, Legislative or Judicial Department of State Government, and local governments, **[**~~from expending money for~~**]** **to prepare certain reports concerning** lobbying activities; **[**~~prohibiting certain persons from receiving compensation or reimbursement for engaging in lobbying activities; prohibiting a person from expending money from a legislative appropriation or authorization for lobbying activities; providing a penalty;~~**]** **establishing certain requirements for contracts for lobbying services; requiring the Board of Regents of the University of Nevada to approve certain contracts for lobbying services;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill **[**~~prohibits~~**]** **requires** an agency, board, bureau, commission, department, division, institution, officer or employee of the Executive Department, the Legislative Department or the Judicial Department of State Government **[**~~from compensating or reimbursing~~**]** **that compensates or reimburses** a person to act as a lobbyist **, [**~~or making~~**]** **makes** an expenditure in connection with lobbying activities that must be reported pursuant to existing law **[**~~. (NRS 218.926)~~**]** **or expends any money in connection with federal lobbying activities to periodically prepare reports concerning all lobbying activities undertaken by or on behalf of the entity.** **Section 2** of this bill extends the same **[**~~prohibitions~~**]** **requirements** to local governments.

~~[**Section 5** of this bill prohibits employees of the Legislative Branch and members, officers and employees of the Judicial and Executive Branches of the State Government, and local governments, from receiving compensation or reimbursement for engaging in lobbying activities. **Section 5** also prohibits a person from using money from a legislative appropriation or authorization to compensate or reimburse a person for acting as a lobbyist or to make an expenditure in connection with lobbying activities that must be reported pursuant to existing law. (NRS 218.942)]~~

Section 6 of this bill provides that contracts for lobbying services must: (1) specify whether the lobbying services are for state or federal lobbying activities, or both; (2) require the lobbyist to disclose the identities of his other clients and the existence of any actual or potential conflicts of interest; and (3) provide for the adjudication of disputes concerning actual conflicts of interest.

Section 7 of this bill requires the Board of Regents of the University of Nevada to approve any contract for lobbying services for the Nevada System of Higher Education or any component thereof.

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

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

1. An entity of State Government ~~[shall not,]~~ that directly or indirectly:

(a) ~~[Compensate or reimburse]~~ Compensates or reimburses a person for acting as a lobbyist; ~~[or]~~

(b) ~~[Make]~~ Makes an expenditure in connection with lobbying activities that must be reported pursuant to NRS 218.926 ~~[.]~~ ; or

(c) Expends any money in connection with any federal lobbying activity,

➥ shall, at least quarterly, prepare a report concerning all lobbying activity undertaken by or on behalf of the entity. During a regular session of the Legislature, the entity shall prepare the report at least monthly.

2. The entity of State Government shall:

(a) Present each report to its governing body, if any, at a regular or special meeting of the governing body that is open to the public; and

(b) On or before January 15 of each year, submit a copy of each report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

3. As used in this section:

(a) "Entity of State Government" includes, without limitation, an agency, board, bureau, commission, department, division, institution, officer or employee of the Executive Department, including, without limitation, the Nevada System of Higher Education and the Public Employees' Retirement System, the Legislative Department or the Judicial Department of State Government.

(b) "Expenditure" has the meaning ascribed to it in NRS 218.906.

(c) "Federal lobbying activity" means any activity that is intended to influence or attempts to influence an officer or employee of any agency of the Federal Government, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with an existing or proposed federal action or program.

(d) "Lobbyist" has the meaning ascribed to it in NRS 218.912.

Sec. 2. Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An entity of local government ~~[shall not,]~~ that directly or indirectly:

(a) ~~[Compensate or reimburse]~~ Compensates or reimburses a person for acting as a lobbyist; ~~[or]~~

(b) ~~[Make]~~ Makes an expenditure in connection with lobbying activities that must be reported pursuant to NRS 218.926 ~~[.]~~ ; or

(c) Expends any money in connection with any federal lobbying activity,

➥ shall, at least quarterly, prepare a report concerning all lobbying activity undertaken by or on behalf of the entity. During a regular session of the Legislature, the entity shall prepare the report at least monthly.

2. The entity of local government shall:

(a) Present each report to its governing body, if any, at a regular or special meeting of the governing body that is open to the public; and

(b) On or before January 15 of each year, submit a copy of each report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

3. As used in this section:

(a) "Entity of local government" includes, without limitation, an agency, board, bureau, commission, department, division, institution, officer or employee of a local government.

(b) "Expenditure" has the meaning ascribed to it in NRS 218.906.

(c) "Federal lobbying activity" has the meaning ascribed to it in section 1 of this act.

(d) "Lobbyist" has the meaning ascribed to it in NRS 218.912.

~~[(d)]~~ (e) "Local government" means any political subdivision of this State, including, without limitation, any county, city, town, board, airport authority, regional transportation commission, fire protection district, irrigation district, school district or other special district that performs a governmental function.

Sec. 3. ~~[~~NRS 354.59803 is hereby amended to read as follows:

~~354.59803 1. In each year in which the Legislature convenes, a local government which expends more than $6,000 on activities designed to influence the passage or defeat of any legislation shall file with the Department of Taxation within 30 days after the close of the legislative session a report supplemental to its final budget which includes separate items for expenses relating to that activity, including, without limitation:~~

~~(a) Transportation.~~

~~(b) The amount of money spent on:~~

~~(1) The lodging and meals of its officers [, lobbyists] and employees;~~ ***and***

~~(2) The salary or wages paid to its officers and employees .[; and~~

~~(3) Compensation paid to any lobbyists, to the extent that such information does not duplicate the information required pursuant to subparagraphs (1) and (2).~~

~~(c) The amount of money spent on entertainment, gifts or other expenses which are required to be reported pursuant to NRS 218.900 to 218.944, inclusive.~~

~~(d)] *(c)* The amount of money spent in Carson City on supplies, equipment and facilities and other personnel and services needed to support the activity.~~

~~[(e)] *(d)* An identification of the fund, account or other source against which the expenses were charged.~~

~~2. The local government shall make a copy of the supplemental report available for inspection within 30 days after the close of the legislative session.]~~ **(Deleted by amendment.)**

Sec. 4. ~~[NRS 218.912 is hereby amended to read as follows:~~

~~218.912 1. "Lobbyist" means, except as limited by subsection 2, a person who:~~

~~(a) Appears in person in the legislative building or any other building in which the Legislature or any of its standing committees hold meetings; and~~

~~(b) Communicates directly with a member of the Legislative Branch on behalf of someone other than himself to influence legislative action whether or not any compensation is received for the communication.~~

~~2. "Lobbyist" does not include:~~

~~(a) Persons who confine their activities to formal appearances before legislative committees and who clearly identify themselves and the interest or interests for whom they are testifying.~~

~~(b) Employees of a bona fide news medium who meet the definition of "lobbyist" only in the course of their professional duties and who contact members of the Legislature for the sole purpose of carrying out their news gathering function.~~

~~(c) Employees of departments, divisions or agencies of the state~~ ***or a local*** ~~government who appear before legislative committees only to explain the effect of legislation related to their departments, divisions or agencies.~~

~~(d)~~ ***Legislators.***

~~***(e)*** Employees of the Legislature, [Legislators,] legislative agencies or legislative commissions [.~~

~~(e)] *who appear before legislative committees only to explain the effect of legislation.***

~~***(f)*** Elected ***or appointed*** officers of this State and its political subdivisions who confine their lobbying activities to ***appearing before legislative committees concerning*** issues directly related to the scope of the office to which they were elected [.~~

(f)**] *or appointed.***

(g) Persons who contact the members of the Legislature who are elected from the district in which they reside.**] (Deleted by amendment.)**

Sec. 5. **[**NRS 218.942 is hereby amended to read as follows:

218.942 1. A lobbyist shall not knowingly or willfully make any false statement or misrepresentation of facts:

(a) To any member of the Legislative Branch in an effort to persuade or influence him in his official actions.

(b) In a registration statement or report concerning lobbying activities filed with the Director.

2. A lobbyist shall not give to a member of the Legislative Branch or a member of his staff or immediate family gifts that exceed $100 in value in the aggregate in any calendar year.

3. A member of the Legislative Branch or a member of his staff or immediate family shall not solicit anything of value from a registrant or accept any gift that exceeds $100 in aggregate value in any calendar year.

4. A person who employs or uses a lobbyist shall not make that lobbyist's compensation or reimbursement contingent in any manner upon the outcome of any legislative action.

5. Except during the period permitted by NRS 218.918, a person shall not knowingly act as a lobbyist without being registered as required by that section.

6. **[**Except as otherwise provided in subsection 7, a member**] *An employee* of the Legislative *Branch and a member, officer or employee of the Judicial* or Executive Branch of the State Government and an **[**elected**]** officer or employee of a political subdivision shall not receive compensation or reimbursement **[**other than from the State or the political subdivision**]** for personally engaging in lobbying.

7. **[**An elected officer or employee of a political subdivision may receive compensation or reimbursement from any organization whose membership consists of elected or appointed public officers.

8.**]** A lobbyist shall not instigate the introduction of any legislation for the purpose of obtaining employment to lobby in opposition thereto.

[9.**]** ***8.*** A lobbyist shall not make, commit to make or offer to make a monetary contribution to a member of the Legislature, the Lieutenant Governor, the Lieutenant Governor-elect, the Governor or the Governor-elect during the period beginning:

(a) Thirty days before a regular session of the Legislature and ending 30 days after the final adjournment of a regular session of the Legislature;

(b) Fifteen days before a special session of the Legislature is set to commence and ending 15 days after the final adjournment of a special session of the Legislature, if the Governor sets a specific date for the commencement of the special session that is more than 15 days after the Governor issues the proclamation calling for the special session; or

~~(c) The day after the Governor issues a proclamation calling for a special session of the Legislature and ending 15 days after the final adjournment of a special session of the Legislature if the Governor sets a specific date for the commencement of the special session that is 15 or fewer days after the Governor issues the proclamation calling for the special session.~~

~~*9. A person shall not, directly or indirectly, use money from a legislative appropriation or authorization to:*~~

~~*(a) Compensate or reimburse a person for acting as a lobbyist; or*~~

~~*(b) Make an expenditure in connection with lobbying activities that must be reported pursuant to NRS 218.926.]*~~ **(Deleted by amendment.)**

Sec. 6. **Chapter 334 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A contract entered into between a governmental entity and a lobbyist for the provision of lobbying services must:

(a) Specify whether the lobbying services will include state lobbying activities, federal lobbying activities, or both state and federal lobbying activities.

(b) Require the lobbyist to disclose to the governmental entity the identity of each client represented by the lobbyist and the existence of any actual or potential conflicts of interest that may arise from his representation of those clients; and

(c) Provide for the adjudication of any dispute between the governmental entity and the lobbyist should an actual conflict of interest arise.

2. As used in this section:

(a) "Federal lobbying activity" has the meaning ascribed to it in section 1 of this act.

(b) "Lobbyist" has the meaning ascribed to it in NRS 218.912 and includes a person who engages in federal lobbying activity.

Sec. 7. **Chapter 396 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. A contract for lobbying services for the System, or a facility, branch or institution thereof, must be approved by the Board of Regents at a regular or special meeting.

2. The Board of Regents must, before it approves a contract for lobbying services, consider and disclose during the meeting the total amount of money committed for all contracts for lobbying services entered into by the System, or a facility, branch or institution thereof.

3. As used in this section, "contract for lobbying services" means a contract that is subject to the provisions of section 6 of this act.

~~[Sec. 6.]~~ ***Sec. 8.*** This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 496.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 338.

AN ACT relating to the Commission on Judicial Discipline; revising the statute of limitations for filing certain complaints with the Commission; revising provisions concerning the grounds upon which the Commission may discipline a judge; authorizing the Commission to impose additional forms of discipline upon a judge who is the subject of a complaint; revising certain provisions concerning the confidentiality of the proceedings of the Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law defines certain terms used in certain provisions of chapter 1 of NRS which relate to the Commission on Judicial Discipline. (NRS 1.425-1.429) **Sections ~~[2]~~ 1.5-9, 16 and 17** of this bill revise certain definitions and define additional terms that are used in those provisions.

Section 13 of this bill requires the Commission to prepare annual and biennial reports concerning, among other things, the disposition of cases filed with the Commission.

Sections 21, 22, 26 and 27 of this bill authorize the Commission to dismiss a complaint with a letter of caution under certain circumstances. (NRS 1.4655, 1.4657, 1.4667, 1.467)

Section 21 of this bill provides, with exceptions, a 3-year statute of limitations for filing a complaint with the Commission concerning alleged misconduct or incapacity of a judge. **Section 21** also requires the Commission, within 18 months after the receipt of such a complaint, to either resolve the complaint or authorize the filing of a formal statement of charges relating to the complaint. (NRS 1.4655) **Section 27** of this bill requires a judge to file an answer to a formal statement of charges against the judge with the Commission within 20 days after the judge is served with the formal statement of charges. (NRS 1.467) **Section 28** of this bill generally requires a hearing on a formal statement of charges to be held **. Further, section 28 requires, if practicable, the hearing to be held** not later than 60 days after a judge files the answer with the Commission. (NRS 1.4673) **Section 28** also requires the Commission to prepare findings of fact and conclusions of law setting forth the decision of the Commission within 60 days after the conclusion of the hearing on the formal statement of charges. (NRS 1.4673)

Section 29 of this bill requires the Commission to give a judge 7 days' notice and an opportunity to respond and to hold a public hearing before the Commission suspends the judge from office. (NRS 1.4675)

Section 30 of this bill adds public admonishment and public reprimand to the existing forms of discipline the Commission is authorized to use for a judge who is the subject of a complaint. (NRS 1.4677) **Section 32** of this bill authorizes a person who files a complaint against a judge with the Commission, the judge who is the subject of the complaint or a witness to

disclose information concerning the complaint and any investigation or proceedings concerning the complaint. **Section 32** also authorizes the Commission to issue an explanatory statement, under certain circumstances, concerning a complaint filed with the Commission under certain circumstances in which the complaint is made public. (NRS 1.4683)

Section 33 of this bill revises provisions governing the documents and exhibits concerning a complaint which must be made accessible to the public.

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

Section 1. Chapter 1 of NRS is hereby amended by adding thereto the provisions set forth as sections ~~[2]~~ **1.5** to 14, inclusive, of this act.

Sec. 1.5. "Admonish" means to issue a written expression of disapproval of a judge for one or more violations of the Nevada Code of Judicial Conduct by the judge as described in NRS 1.4653. The expression of disapproval may include a warning to the judge to avoid similar conduct in the future.

Sec. 2. ***"Censure" means to issue a formal, written condemnation of a judge for one or more violations of the Nevada Code of Judicial Conduct by the judge as described in NRS 1.4653 that do not require ~~[suspension]~~ the removal or barring of the judge from office because there are substantial mitigating factors.***

Sec. 3. ***"Complaint" means information in any form and from any source that alleges or implies judicial misconduct or incapacity.***

Sec. 4. ***"Formal statement of charges" means a document ~~[issued by the Commission]~~ setting forth the specific acts of judicial misconduct or incapacity, including any amendment thereto.***

Sec. 5. ***"Letter of caution" means a private, written communication to a judge to:***

1. Remind the judge of ethical responsibilities;

2. Warn the judge to avoid similar conduct in the future; or

3. Disapprove of conduct that may create the appearance of impropriety.

Sec. 6. ***"Removal" ~~[or "remove"]~~ means a decision issued by the Commission to require a judge to permanently leave his judicial office for conduct described in NRS 1.4653.***

Sec. 6.5. "Remove" means to require a judge to permanently leave his judicial office for conduct described in NRS 1.4653.

Sec. 7. ***"Reprimand" means a severe, written reproof for one or more violations of the Nevada Code of Judicial Conduct by a judge as described in NRS 1.4677.***

Sec. 8. ***"Special counsel" means the attorney designated by the Commission to:***

1. ~~[Direct the investigation of a complaint; and]~~ Present evidence at a hearing to suspend a judge held pursuant to NRS 1.4675;

2. File and prosecute a formal statement of charges ~~[.]~~ ; and

3. Perform other tasks, as directed by the Commission, pursuant to a designation authorized by NRS 1.4663.

Sec. 9. ***"Suspend" means a decision issued by the Commission to require a judge to temporarily leave his office for conduct described in NRS 1.4675.***

Sec. 10. ***1. Proceedings before the Commission are civil matters designed to preserve an independent and honorable judiciary.***

2. Except as otherwise provided in NRS 1.425 to 1.4695, inclusive, and sections ~~[2]~~ 1.5 to 14, inclusive, of this act or in the procedural rules adopted by the Commission, after a formal statement of charges has been filed, the Nevada Rules of Civil Procedure apply.

Sec. 11. ***1. Each appointing authority shall appoint for each position for which the authority makes an appointment to the Commission an alternate member . ~~[who is a resident from a different county than the appointed member.]~~ The Governor shall not appoint more than two alternate members of the same political party. An alternate member must not be a member of the Commission on Judicial Selection.***

2. An alternate member shall serve:

(a) When the appointed member is disqualified or unable to serve; or

(b) When a vacancy exists.

Sec. 12. ***The Commission shall adopt rules providing for the disposition of a complaint or formal statement of charges at any stage in a disciplinary proceeding, pursuant to:***

1. The consent of the judge who is the subject of the complaint; and

2. An agreement between the judge and the Commission.

Sec. 13. ***1. ~~[Within 3 months before the end]~~ On or before September 30 of each ~~[fiscal]~~ year, the Commission shall prepare an annual report summarizing the activities of the Commission during ~~[that]~~ the preceding fiscal year. The annual report must include, without limitation, information concerning the disposition of complaints and a statement of the budget and expenses of the Commission. The annual report must be made available to the public.***

2. ~~[Every 2 years,]~~ On or before September 30 of each odd-numbered year, the Commission shall prepare a biennial report summarizing the activities of the Commission during the preceding 2 fiscal years. The biennial report must include, without limitation, information concerning the disposition of complaints and a statement of the budget and expenses of the Commission. The Commission shall file a copy of the biennial report with the Governor, the Majority Leader of the Senate, the Speaker of the Assembly, the Chief Justice of the Supreme Court of Nevada, the Chairman of the Senate Standing Committee on Judiciary, the Chairman

of the Assembly Standing Committee on Judiciary and the State Bar of Nevada. The biennial report must be made available to the public.

3. The information included in the annual and biennial reports prepared pursuant to this section must comply with any applicable confidentiality requirements.

Sec. 14. ***1. The Commission may extend the limitations on time set forth in NRS 1.425 to 1.4695, inclusive, and sections*** ~~*[2]*~~ ***1.5 to 14, inclusive, of this act for good cause shown.***

2. The limitations on time set forth in NRS 1.425 to 1.4695, inclusive, and sections ~~*[2]*~~ ***1.5 to 14, inclusive, of this act must be computed in the same manner as in the Nevada Rules of Civil Procedure and the Nevada Rules of Appellate Procedure and must not include:***

(a) Periods of delay at the request of or attributable to a judge other than the judge who is the subject of a complaint;

(b) Short periods of delay that are the result of the period between scheduled meetings of the Commission;

(c) Periods in which the judge who is the subject of a complaint and the Executive Director of the Commission or special counsel are negotiating an agreement; or

(d) Periods when the Commission is holding a complaint in abeyance pending the disposition of a court case relating to the complaint.

3. The Commission shall not dismiss a complaint or a formal statement of charges for failure to comply with the limitations of time set forth in NRS 1.425 to 1.4695, inclusive, and sections ~~*[2]*~~ ***1.5 to 14, inclusive, of this act unless the Commission determines such a delay is unreasonable and the rights of the judge to a fair hearing have been violated. The fact that an investigation has been conducted more than 24 months after the date the complaint was filed with the Commission is prima facie evidence of an unreasonable delay, which may be rebutted.***

Sec. 15. NRS 1.425 is hereby amended to read as follows:

1.425 As used in NRS 1.425 to 1.4695, inclusive, ***and sections*** ~~*[2]*~~ ***1.5 to 14, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 1.426 ~~[to 1.429, inclusive,]~~ ***, 1.427 and 1.428, and sections*** ~~*[2]*~~ ***1.5 to 9, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 16. NRS 1.427 is hereby amended to read as follows:

1.427 "Incapacitated" means unable to perform the duties of ~~[his]~~ office because of advanced age or mental or physical disability.

Sec. 17. NRS 1.428 is hereby amended to read as follows:

1.428 "Judge" means:

1. ***A justice of the Supreme Court*** ***;*** ~~*[of the State of Nevada;]*~~

2. A judge of the district court;

~~[2.]~~ ***3.*** A judge of the municipal court;

~~[3.]~~ ***4.*** A justice of the peace; and

~~[4.]~~ ***5.*** Any other officer of the Judicial Branch of this State, whether or not he is an attorney, who presides over judicial proceedings, including, but not limited to, a magistrate, court commissioner, special master or referee.

Sec. 18. NRS 1.440 is hereby amended to read as follows:

1.440 1. The Commission has exclusive jurisdiction over the ***public*** censure, removal, involuntary retirement and other discipline of judges which is coextensive with its jurisdiction over justices of the Supreme Court and must be exercised in the same manner and under the same rules.

2. The Supreme Court shall appoint two justices of the peace or two municipal judges to sit on the Commission for formal, public proceedings against a justice of the peace or a municipal judge, respectively. Justices of the peace and municipal judges so appointed must be designated by an order of the Supreme Court to sit for such proceedings in place of and to serve for the same terms as the regular members of the Commission appointed by the Supreme Court.

Sec. 19. NRS 1.465 is hereby amended to read as follows:

1.465 1. The following persons are absolutely immune from suit for all conduct at any time in the course of their official duties:

(a) Any member who serves on the Commission;

(b) Any person employed by the Commission;

(c) Any independent contractor of the Commission; and

(d) Any person who performs services pursuant to NRS 1.450 or 1.460 for the Commission.

2. ~~[The]~~ ***Except as otherwise provided in NRS 1.4683, the*** following persons are absolutely immune from suit unless convicted of committing perjury before the Commission pursuant to NRS 199.120 to 199.200, inclusive:

(a) A person who files a complaint with the Commission pursuant to NRS 1.4655; ~~[and]~~

(b) A person who gives testimony at a ~~[public]~~ hearing held by the Commission pursuant to NRS ~~[1.467.]~~ ***1.4673 or 1.4675 [.] ; and***

(c) A person who gives a statement to an investigator of the Commission during an authorized investigation.

Sec. 20. NRS 1.4653 is hereby amended to read as follows:

1.4653 1. The Commission may remove ~~[,]~~ ***a judge, publicly*** censure ***a judge*** or impose other forms of discipline on a ~~[justice or]~~ judge if the Commission determines that the ~~[justice or]~~ judge:

(a) Has committed willful misconduct;

(b) Has willfully or persistently failed to perform the duties of his office; or

(c) Is habitually intemperate.

2. The Commission may ***publicly*** censure ***a judge*** or impose other forms of discipline on a ~~[justice or]~~ judge if the Commission determines that the ~~[justice or]~~ judge has violated one or more of the provisions of the Nevada Code of Judicial Conduct in a manner that is not knowing or deliberate.

3. The Commission may retire a ~~[justice or]~~ judge if the Commission determines that:

(a) The advanced age of the ~~[justice or]~~ judge interferes with the proper performance of his judicial duties; or

(b) The ~~[justice or]~~ judge suffers from a mental or physical disability that prevents the proper performance of his judicial duties and is likely to be permanent in nature.

4. As used in this section:

(a) "Habitual intemperance" means the chronic, excessive use of alcohol or another substance that affects mental processes, awareness or judgment.

(b) "Willful misconduct" includes:

(1) Conviction of ~~[a felony or of a misdemeanor]~~ ***any crime*** involving moral turpitude;

(2) A knowing or deliberate violation of one or more of the provisions of the Nevada Code of Judicial Conduct; ***and***

(3) A knowing or deliberate act or omission in the performance of judicial or administrative duties that:

(I) Involves fraud or bad faith or amounts to a public offense; and

(II) Tends to corrupt or impair the administration of justice in a judicial proceeding **.** ~~[; and~~

~~(4) Knowingly or deliberately swearing falsely in testimony before the Commission or in documents submitted under oath to the Commission.]~~

➥ ***The term does not include claims of error or abuse of discretion in findings of fact, legal decisions or procedural rulings unless supported by evidence of abuse of authority, a disregard for fundamental rights, an intentional disregard of the law, a pattern of legal error or an action taken for a purpose other than the faithful discharge of judicial duty.***

Sec. 21. NRS 1.4655 is hereby amended to read as follows:

1.4655 1. The Commission may begin an inquiry regarding the alleged misconduct or incapacity of a ~~[justice or]~~ judge upon the receipt of ~~[:~~

~~(a) A written, sworn complaint from any person which alleges that the justice or judge has committed misconduct or is incapacitated; or~~

~~(b) Information from any source and in any format, from which the Commission may reasonably infer that the justice or judge may have committed misconduct or be incapacitated.~~

~~2. For the purposes of further inquiry and action by the Commission, information described in paragraph (b) of subsection 1 shall be deemed to be a complaint upon motion of the Commission.]~~ ***a complaint.***

2. The Commission shall not consider complaints arising from acts or omissions that occurred more than 3 years before the date of the complaint or more than 1 year after the complainant knew or in the exercise of reasonable diligence should have known of the conduct, whichever is earlier, except that:

(a) Where there is a continuing course of conduct, the conduct will be deemed to have been committed at the termination of the course of conduct;

(b) Where there is a pattern of recurring judicial misconduct and at least one act occurs within the 3-year or 1-year period, as applicable, the Commission may consider all prior acts or omissions related to that pattern; and

(c) Any period in which the judge has concealed or conspired to conceal evidence of misconduct is not included in the computation of the time limit for the filing of a complaint pursuant to this section.

3. Within 18 months after the receipt of a complaint pursuant to this section, the Commission shall:

(a) Dismiss the complaint with or without a letter of caution;

(b) Attempt to resolve the complaint informally as required pursuant to NRS 1.4665;

(c) Enter into a deferred discipline agreement pursuant to NRS 1.468;

(d) With the consent of the judge, impose discipline on the judge pursuant to an agreement between the judge and the Commission; or

(e) Authorize the filing of a formal statement of the charges based on a finding that there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action.

Sec. 22. NRS 1.4657 is hereby amended to read as follows:

1.4657 1. The Commission shall, in accordance with its procedural rules, examine each complaint that it receives ~~[pursuant to NRS 1.4655]~~ to determine whether the complaint ~~[contains allegations which, if true, would establish grounds for discipline pursuant to NRS 1.4653.]~~ ***alleges objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct or is incapacitated.***

2. If the Commission determines that a complaint does not contain such allegations, the Commission shall dismiss the complaint ~~[.]~~ ***with or without a letter of caution. A letter of caution is not a form of discipline. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the letter of caution is not relevant to the misconduct alleged in the subsequent complaint.***

3. If the Commission determines that a complaint does contain such allegations, the Commission shall authorize further investigation **.** ~~[to be conducted in accordance with NRS 1.4663.]~~

Sec. 23. NRS 1.466 is hereby amended to read as follows:

1.466 1. During any stage of a disciplinary proceeding, including, but not limited to, an investigation ~~[to determine probable cause]~~ ***pursuant to NRS 1.4663*** and a formal hearing, the Commission may issue a subpoena to compel the attendance or testimony of a witness or the production of any

relevant materials, including, but not limited to, books, papers, documents, records, photographs, recordings, reports and tangible objects.

2. If a witness refuses to attend, testify or produce materials as required by the subpoena, the Commission may, in accordance with its procedural rules, hold the witness in contempt and impose a reasonable penalty to enforce the subpoena.

3. If a witness continues to refuse to attend, testify or produce materials as required by the subpoena, the Commission may report to the district court by petition, setting forth that:

(a) Due notice has been given of the time and place of attendance or testimony of the witness or the production of materials;

(b) The witness has been subpoenaed by the Commission pursuant to this section; and

(c) The witness has failed or refused to attend, testify or produce materials as required by the subpoena before the Commission, or has refused to answer questions propounded to him,

➥ and asking for an order of the court compelling the witness to attend, testify or produce materials before the Commission.

4. Upon receipt of such a petition, the court shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in its order, the time to be not more than 10 days after the date of the order, and then and there show cause why he has not attended, testified or produced materials before the Commission. A certified copy of the order must be served upon the witness.

5. If it appears to the court that the subpoena was regularly issued by the Commission, the court shall enter an order that the witness appear before the Commission at a time and place fixed in the order and testify or produce materials, and that upon failure to obey the order the witness must be dealt with as for contempt of court.

Sec. 24. NRS 1.4663 is hereby amended to read as follows:

1.4663 1. If the Commission determines pursuant to NRS 1.4657 that a complaint ~~[contains allegations which, if true, would establish grounds for discipline pursuant to NRS 1.4653,]~~ ***alleges objectively verifiable evidence from which a reasonable inference could be drawn that a judge committed misconduct or is incapacitated,*** the Commission shall assign or appoint an investigator to conduct an investigation to determine whether the allegations have merit. ***The Commission may designate special counsel at any time*** ~~*[during an investigation of a complaint.]*~~ ***after a complaint is filed with the Commission pursuant to NRS 1.4655.***

2. Such an investigation must be conducted in accordance with procedural rules adopted by the Commission and may extend to any matter that is, in the determination of the Commission, reasonably related to an allegation of misconduct or incapacity contained in the complaint.

3. An investigator assigned or appointed by the Commission to conduct an investigation pursuant to this section may, for the purpose of

investigation, compel by subpoena on behalf of the Commission the attendance of witnesses and the production of necessary materials as set forth in NRS 1.466.

4. At the conclusion of the investigation, the investigator shall prepare a written report of the investigation for review by the Commission.

Sec. 25. NRS 1.4665 is hereby amended to read as follows:

1.4665 1. ~~[If a]~~ ***Except as otherwise provided in this section or in the procedural rules adopted by the Commission, the Commission shall use the same procedures with respect to allegations of incapacity as it uses with respect to allegations of misconduct.***

2. The Commission shall attempt to resolve the following matters informally:

(a) A complaint received by the Commission ***which*** alleges that a ~~[justice or]~~ judge is incapacitated ~~[, the Commission shall, after examining the complaint and conducting an investigation pursuant to NRS 1.4657 and 1.4663, attempt to resolve the matter informally.]~~ ***;***

(b) A matter in which the preliminary investigation reveals that a judge may have a physical or mental disability; and

(c) A matter in which the judge raises a mental or physical disability as an issue before the filing of the formal statement of charges.

3. An informal resolution by the Commission pursuant to subsection 2 includes, without limitation:

(a) Voluntary retirement by the judge; and

(b) If the disability can be adequately addressed through treatment, a deferred discipline agreement pursuant to NRS 1.468.

4. In attempting to resolve ~~[the]~~ ***a*** matter informally, the Commission may request that the ~~[justice or]~~ judge named in the complaint submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the Commission.

~~[2.]~~ ***5.*** If the Commission is unable to resolve the matter informally pursuant to subsection ~~[1,]~~ ***2,*** the Commission shall:

(a) Proceed as set forth in NRS 1.4667, 1.467 and 1.4673. ~~[If the matter proceeds to the point at which the prosecuting attorney files a statement of formal charges pursuant to NRS 1.467 and the justice or judge named in the complaint denies all or part of those charges, the Commission shall deem such a denial to be consent on the part of the justice or judge to submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the Commission.]~~

(b) Unless the ~~[justice or]~~ judge has retained counsel at his own expense, appoint an attorney to represent the ~~[justice or]~~ judge at public expense.

6. If a judge raises a mental or physical disability as an affirmative defense or in mitigation, the judge shall be deemed to have consented to medical, psychiatric or psychological testing and to have waived the psychologist-patient privilege, doctor-patient privilege, marriage and family therapist-client privilege and social worker-client privilege set forth in

chapter 49 of NRS, as applicable. The Commission shall require the judge to produce his relevant medical records and to submit to medical, psychiatric or psychological testing by a physician licensed to practice medicine in this State who is selected by the judge. If the judge refuses to produce medical records or submit to an examination, the Commission shall preclude the judge from presenting the medical records or evidence of the results of medical examinations conducted on behalf of the judge and may consider the refusal as evidence that the judge has an incapacity that seriously interferes with the performance of judicial duties of the judge and is likely to become permanent, or as evidence contradicting the claim of a disability by the judge as an affirmative defense or mitigating factor.

7. If a judge raises a mental illness or other disability as a defense or mitigating factor in a proceeding alleging misconduct, the judge has the burden of proving by ~~[clear and convincing]~~ ***a preponderance of the evidence that:***

(a) He has a serious mental illness or other disability;

(b) The mental illness or other disability caused the misconduct;

(c) He has undergone or is undergoing treatment for the mental illness or other disability;

(d) The treatment has abated the cause of the misconduct; and

(e) The misconduct is not likely to recur.

~~[3.]~~ ***8.*** The findings of a physician ~~[appointed]~~ ***selected*** by the Commission pursuant to this section are not privileged communications.

~~[4.]~~ ***9.*** The provisions of this section do not prohibit a ~~[justice or]~~ judge from having legal counsel and a physician of his choice present at a medical, psychiatric or psychological examination conducted pursuant to this section.

~~[5.]~~ ***10.*** The Commission shall adopt procedural rules to carry out the provisions of this section.

Sec. 26. NRS 1.4667 is hereby amended to read as follows:

1.4667 ***1.*** The Commission shall review the report ~~[of an investigation conducted]~~ ***prepared*** pursuant to NRS 1.4663 to determine whether there is ~~[sufficient reason to proceed.]~~ ***a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against a judge.***

2. If the Commission determines that ~~[there is not sufficient reason to proceed,]~~ ***such a reasonable probability does not exist,*** the Commission shall dismiss the complaint ~~[.]~~ ***with or without a letter of caution. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the caution is not relevant to the misconduct alleged in the subsequent complaint.***

3. If the Commission determines that ~~[it could, in all likelihood, make a determination in the affirmative pursuant to NRS 1.467,]~~ ***such a reasonable probability exists,*** the Commission shall require the ~~[justice or]~~ judge ~~[named in the complaint]~~ to respond to the complaint in accordance with procedural

rules adopted by the Commission. ~~[If the] [justice or] [judge fails to respond to the complaint, the Commission shall deem such failure to be an admission that the facts alleged in the complaint:]~~

~~[1.] *[(a) Are true; and]*~~

~~[2.] *[(b) Establish grounds for discipline pursuant to NRS 1.4653.]*~~

Sec. 27. NRS 1.467 is hereby amended to read as follows:

1.467 1. After ~~[the justice or]~~ ***a*** judge ~~[named in the complaint]~~ responds to the complaint ***as required*** pursuant to NRS 1.4667 ***,*** ~~[and after considering that response and other relevant information,]~~ the Commission shall make a finding of whether there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against the ~~[justice or]~~ judge ***.*** ~~[named in the complaint pursuant to NRS 1.4653.]~~

2. If the Commission ~~[makes a finding]~~ ***finds*** that such a reasonable probability does not exist, the Commission shall dismiss the complaint ~~[.]~~ ***with or without a letter of caution. The Commission may consider a letter of caution when deciding the appropriate action to be taken on a subsequent complaint against a judge unless the caution is not relevant to the misconduct alleged in the subsequent complaint.***

3. If the Commission ~~[makes a finding]~~ ***finds*** that such a reasonable probability ~~[does exist,]~~ ***exists, but reasonably believes that the misconduct would be addressed more appropriately through rehabilitation, treatment, education or minor corrective action, the Commission may enter into a deferred discipline agreement with the judge for a definite period as described in NRS 1.468.***

4. The Commission shall not dismiss a complaint with a letter of caution or enter into a deferred discipline agreement with a judge if:

(a) The misconduct of the judge involves the misappropriation of money, dishonesty, deceit, fraud, misrepresentation or a crime that adversely reflects on the honesty, trustworthiness or fitness of the judge;

(b) The misconduct of the judge resulted or will likely result in substantial prejudice to a litigant or other person;

(c) The misconduct of the judge is part of a pattern of similar misconduct; or

(d) The misconduct of the judge is of the same nature as misconduct for which the judge has been publicly disciplined or which was the subject of a deferred discipline agreement entered into by the judge within the immediately preceding 5 years.

5. If the Commission finds that such a reasonable probability exists and that formal proceedings are warranted, the Commission shall, in accordance with its procedural rules ~~[:~~

~~(a) Designate a prosecuting attorney, who must]~~ ***, designate special counsel to*** sign under oath ***and file with the Commission*** a formal statement of charges against the ~~[justice or judge and file the statement with the Commission;~~

~~(b) Require that the justice or judge submit to the Commission an answer to the formal statement of charges; and~~

~~(c) Hold a formal, public hearing on the merits of the charges.~~

~~4.~~**]** ***judge.***

6. Within 20 days after service of the formal statement of charges, the judge shall file an answer with the Commission under oath. If the **[**~~justice or~~**]** judge fails to answer the formal statement of charges **[**~~pursuant to subsection 3,~~**]** ***within that period,*** the Commission shall deem such failure to be an admission that the charges set forth in the formal statement:

(a) Are true; and

(b) Establish grounds for discipline pursuant to NRS 1.4653.

7. The Commission shall adopt rules regarding disclosure and discovery after the filing of a formal statement of charges.

8. By leave of the Commission, a statement of formal charges may be amended at any time, before the close of the hearing, to allege additional matters discovered in a subsequent investigation or to conform to proof presented at the hearing if the judge has adequate time, as determined by the Commission, to prepare a defense.

Sec. 28. NRS 1.4673 is hereby amended to read as follows:

1.4673 **[**~~After holding a formal hearing on the merits of the charges filed pursuant to NRS 1.467, the Commission shall, in accordance with its procedural rules, dismiss the charges or discipline the justice or judge~~**]**

1. Unless a deferred discipline agreement has been entered into with the judge pursuant to NRS 1.468, a hearing on a formal statement of charges must be held . If practicable, the hearing must be held not later than 60 days after:

(a) The judge files an answer; or

(b) The date on which the time period for filing an answer expires if the judge has not filed an answer and has not filed with the Commission a request for an extension of time before the expiration of the period for filing the answer.

2. If formal charges are filed against a judge:

(a) The standard of proof in any proceedings following the formal statement of charges is clear and convincing evidence.

(b) The burden of proof rests on the special counsel except where otherwise provided by specific statute.

(c) The rules of evidence applicable to civil proceedings apply at a hearing held pursuant to subsection 1.

3. Within 60 days after the conclusion of a hearing on a formal statement of charges, the Commission shall prepare and adopt written findings of fact and conclusions of law that:

(a) Dismiss all or part of the charges, if the Commission determines that the grounds for discipline have not been proven by clear and convincing evidence; or

(b) Impose such disciplinary actions on the judge as deemed appropriate by the Commission ~~[.]~~ ***, if the Commission determines that the grounds for discipline have been proven by clear and convincing evidence.***

Sec. 29. NRS 1.4675 is hereby amended to read as follows:

1.4675 1. The Commission shall suspend a ~~[justice or]~~ judge from the exercise of office with salary:

(a) While there is pending an indictment or information charging the ~~[justice or]~~ judge with a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States; or

(b) When the ~~[justice or]~~ judge has been adjudged mentally incompetent or insane.

2. The Commission may suspend a ~~[justice or]~~ judge from the exercise of office without salary if the ~~[justice or]~~ judge:

(a) Pleads guilty, guilty but mentally ill or no contest to a charge of; or

(b) Is found guilty or guilty but mentally ill of,

➥ a crime punishable as a felony pursuant to the laws of the State of Nevada or the United States. If the conviction is later reversed, the ~~[justice or]~~ judge must be paid his salary for the period of suspension.

3. ***In addition to the grounds set forth in subsection 2, the Commission may suspend a judge from the exercise of office without salary if the Commission determines that the judge:***

(a) Has committed serious and repeated willful misconduct;

(b) Has willfully or persistently failed to perform the duties of his office; or

(c) Is habitually intemperate,

➥ ***and the Commission determines that the circumstances surrounding such conduct, including, without limitation, any mitigating factors, merit disciplinary action more severe than censure but less severe than removal.***

4. ~~[The]~~ ***During any stage of a disciplinary proceeding, the*** Commission may suspend ~~[a justice or]~~ ***the*** judge from the exercise of office with salary ***pending a final disposition of the complaint*** if the Commission determines, ~~[pending a final determination in a judicial disciplinary proceeding,]~~ ***by a preponderance of the evidence,*** that the ~~[justice or]~~ judge poses a substantial threat of serious harm to the public or to the administration of justice.

~~[4.]~~ ***5. The Commission shall give the judge 7 days' notice of its intention to suspend the judge pursuant to this section and shall give the judge an opportunity to respond. The Commission shall hold a public hearing before ordering such a suspension, unless the judge waives his right to the hearing. The decision of the Commission must be made public.***

6. A ~~[justice or]~~ judge suspended pursuant to this section may appeal the suspension to the Supreme Court ***.*** ~~[for reconsideration of the order.~~

~~5.]~~ ***If a judge appeals such a suspension:***

(a) The standard of review for such an appeal is an abuse of discretion standard; and

(b) The proceedings held at the Supreme Court concerning the suspension must be open to the public.

7. Within 60 days after a decision by the Commission to suspend a judge pursuant to this section, the Commission shall:

(a) ~~[File]~~ Have a formal statement of charges filed against the judge;

(b) Rescind the suspension; or

(c) Enter into a deferred discipline agreement with the judge pursuant to NRS 1.468.

8. The Commission may suspend a ~~[justice or]~~ judge pursuant to this section only in accordance with its procedural rules.

Sec. 30. NRS 1.4677 is hereby amended to read as follows:

1.4677 ~~[In addition to or in lieu of removal or censure, the Commission may impose other forms of discipline on a justice or judge whom the Commission determines to have committed an act or engaged in a behavior in violation of subsection 1 or 2 of NRS 1.4653, including, but not limited to, requiring the justice or judge to:]~~

1. ***Pursuant to a deferred discipline agreement with the judge entered into pursuant to NRS 1.468 or based on a finding of misconduct following a hearing on a formal statement of charges, the Commission may take one or more of the following actions:***

(a) Publicly admonish, publicly reprimand or publicly censure a judge.

(b) ~~[Pay]~~ ***Impose*** a fine ~~[.~~

~~2. Serve a term of suspension]~~ ***upon the judge.***

(c) Suspend the judge from office ~~[.~~

~~3.]~~ ***without pay.***

(d) Require the judge to:

(1) Complete a probationary period pursuant to conditions deemed appropriate by the Commission.

~~[4.]~~ ***(2)*** Attend training or educational courses.

~~[5.]~~ ***(3)*** Follow a remedial course of action.

~~[6.]~~ ***(4)*** Issue a public apology.

~~[7.]~~ ***(5)*** Comply with conditions or limitations on his future conduct.

~~[8.]~~ ***(6)*** Seek medical, psychiatric or psychological care or counseling and direct the provider of health care or counselor to report to the Commission regarding the condition or progress of the ~~[justice or]~~ judge.

~~[9. Agree not to seek]~~

(e) Bar the judge from serving in a judicial office in the future.

~~[10. Perform any combination of the actions set forth in this section.]~~

(f) Impose any other reasonable disciplinary action or combination of disciplinary actions that the Commission determines will curtail or remedy the misconduct of the judge.

2. The Commission may publicly admonish a judge pursuant to subsection 1 if the Commission determines that the judge has violated one or more of the provisions of the Nevada Code of Judicial Conduct in a

manner that is not knowing or deliberate and for which there are no aggravating factors.

3. The Commission may publicly reprimand a judge pursuant to subsection 1 if the Commission determines that the judge has violated one or more of the provisions of the Nevada Code of Judicial Conduct in a manner that is:

(a) Not knowing or deliberate but for which there are aggravating factors; or

(b) Knowing or deliberate but for which there are mitigating factors.

Sec. 31. NRS 1.468 is hereby amended to read as follows:

1.468 1. Except as otherwise provided in subsections 2 and 3, if the Commission reasonably believes that a ~~[justice or]~~ judge has committed an act or engaged in a behavior that would be addressed most appropriately through rehabilitation, treatment, education or minor corrective action, the Commission may enter into an agreement with the ~~[justice or]~~ judge to defer formal disciplinary proceedings and require the ~~[justice or]~~ judge to undergo the rehabilitation, treatment, education or minor corrective action.

2. The Commission may not enter into an agreement with a ~~[justice or]~~ judge to defer formal disciplinary proceedings if the Commission has determined, pursuant to NRS 1.467, that there is a reasonable probability that the evidence available for introduction at a formal hearing could clearly and convincingly establish grounds for disciplinary action against the ~~[justice or]~~ judge pursuant to NRS 1.4653.

3. The Commission may enter into an agreement with a ~~[justice or]~~ judge to defer formal disciplinary proceedings only in response to misconduct that is minor in nature.

4. A deferred discipline agreement entered into pursuant to this section must be in writing and must specify the conduct that resulted in the agreement. A judge who enters into such an agreement must agree:

(a) To the specified rehabilitation, treatment, education or minor corrective action;

(b) To waive his right to a hearing before the Commission; and

(c) That the agreement will not be protected by confidentiality for the purpose of any subsequent disciplinary proceedings against the judge,

↳ and the agreement must indicate that the judge agreed to the terms set forth in paragraphs (a), (b) and (c). Such an agreement must expressly authorize the Commission to revoke the agreement and proceed with any other disposition of the complaint or formal statement of charges authorized by NRS 1.467 if the Commission finds that the judge has failed to comply with a condition of the agreement.

5. The Executive Director of the Commission shall monitor the compliance of the judge with the agreement. The Commission may require the judge to document his compliance with the agreement. The Commission shall give the judge written notice of any alleged failure to

comply with any condition of the agreement and shall allow the judge not less than 15 days to respond.

6. If the judge complies in a satisfactory manner with the conditions imposed in the agreement, the Commission may dismiss the complaint or take any other appropriate action.

Sec. 32. NRS 1.4683 is hereby amended to read as follows:

1.4683 1. Except as otherwise provided in this section and NRS ~~[1.4693]~~ ***1.4675*** and 239.0115, all proceedings of the Commission must remain confidential until the Commission makes a determination pursuant to NRS 1.467 and the ~~[prosecuting attorney]~~ ***special counsel*** files a formal statement of charges.

2. ***Except as otherwise provided in this section, before the filing of a formal statement of charges, a present or former member of the Commission, a present or former member of the staff of the Commission or a present or former independent contractor retained by the Commission shall not disclose information contained in a complaint or any other information relating to the allegations of misconduct or incapacity. Such persons:***

(a) May disclose such information to persons directly involved in the matter to the extent necessary for a proper investigation and disposition of the complaint; and

(b) Shall conduct themselves in a manner that maintains the confidentiality of the disciplinary proceeding.

3. Nothing in this section prohibits a person who files a complaint with the Commission pursuant to NRS 1.4655, a judge against whom such a complaint is made or a witness from disclosing at any time the existence or substance of a complaint, investigation or proceeding. The immunity provided by NRS 1.465 does not apply to such a disclosure.

4. The confidentiality required pursuant to subsection 1 also applies to all information and materials, written or oral, received or developed by the Commission ***,*** ~~[or]~~ its staff ***or any independent contractors retained by the Commission*** in the course of its work and relating to the alleged misconduct or incapacity of a judge.

~~[3.]~~ ***5.*** The Commission shall disclose:

(a) The report of a proceeding before the Commission; and

(b) All testimony given and all materials filed in connection with such a proceeding,

➥ if a witness is prosecuted for perjury committed during the course of that proceeding.

~~[4. If the Commission determines at any stage in a disciplinary proceeding that there is an insufficient factual or legal basis to proceed, the Commission shall dismiss the complaint and may, at the request of the justice or judge named in the complaint, publicly issue an explanatory statement.~~

~~5. The Commission may issue press releases and other public statements to:~~

~~(a) Explain the nature of its jurisdiction;~~

~~(b) Explain the procedure for filing a complaint;~~

~~(c) Explain limitations upon its powers and authority; and~~

~~(d) Report on the conduct of its affairs.~~

~~➥ Such releases and statements must not, without the consent of the justice or judge concerned, disclose by name, position, address or other information the identity of a justice or judge or other person involved in a proceeding then pending before the Commission or that has been resolved without an order of censure, removal or retirement, unless formal charges have been filed after a determination pursuant to NRS 1.467.~~**]**

6. ***Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, if the judge, a third person or the person who filed a complaint with the Commission pursuant to NRS 1.4655 has made the name of the judge against whom such a complaint is made public, the Commission may, at the request of the judge or on its own accord, issue an explanatory statement to maintain confidence in the judicial system and the Commission. In such a statement, the Commission may:***

(a) Confirm or deny that a complaint has been filed;

(b) Confirm or deny that the Commission is conducting an investigation;

(c) Confirm that the Commission has dismissed a complaint with or without a letter of caution; and

(d) Confirm that the Commission has entered into a deferred discipline agreement with the judge.

7. In addition to the information authorized pursuant to subsection 6, a statement issued by the Commission pursuant to subsection 6 may correct any public misinformation concerning the disciplinary proceeding, clarify the procedures of the Commission relating to the disciplinary proceeding and explain that the judge has a right to a fair investigation and, if applicable, a fair hearing without prejudgment. The Commission shall submit such a statement to the judge concerned for comments before the Commission releases the statement. The Commission is not required to incorporate any comments made by the judge in the statement and may release the statement as originally drafted.

8. The Commission may, without disclosing the name of or any details that may identify the ~~[~~justice or~~]~~ judge involved, disclose the existence of a proceeding before it to the State Board of Examiners and the Interim Finance Committee to obtain additional money for its operation from the Contingency Fund established pursuant to NRS 353.266.

~~[~~7.~~]~~ ***9.*** No record of any medical examination, psychiatric evaluation or other comparable professional record made for use in an informal resolution pursuant to subsection ~~[~~1~~]~~ ***4*** of NRS 1.4665 may be made public at any time without the consent of the ~~[~~justice or~~]~~ judge concerned.

10. Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, the Commission may release confidential information:

(a) To the appropriate law enforcement or prosecuting authorities if the Commission determines that it has reliable information which reveals possible criminal conduct by a judge, former judge or any other person;

(b) Upon request to the Board of Governors of the State Bar of Nevada or other appropriate disciplinary authorities of the State Bar of Nevada if the Commission determines that it has reliable information that reveals a possible violation of the Rules of Professional Conduct by a judge, former judge or any other attorney; or

(c) Pursuant to an order issued by a court of record of competent jurisdiction in this State or a federal court of record of competent jurisdiction.

11. Notwithstanding the provisions of this section to the contrary, at any stage in a disciplinary proceeding, if a judge or former judge signs a waiver, the Commission may release confidential information concerning any complaints filed with the Commission pursuant to NRS 1.4655 that are pending or are closed and did not result in a dismissal to:

(a) An agency authorized to investigate the qualifications of persons for admission to practice law;

(b) An appointing or nominating authority or a state or federal agency lawfully conducting investigations relating to the selection or appointment of judges; or

(c) An agency conducting investigations relating to employment with a governmental agency or other employment.

12. If the Commission discloses information concerning a pending complaint to an agency or authority pursuant to subsection 11, the Commission shall subsequently disclose the disposition of the complaint to the agency or authority. The Commission shall send a copy of all information disclosed pursuant to subsection 11 to the judge concerned at the same time the Commission sends the information to the agency or authority.

Sec. 33. NRS 1.4687 is hereby amended to read as follows:

1.4687 ~~[Upon]~~ ***1. Except as otherwise provided in subsection 2:***

(a) Upon the filing of a formal statement of charges with the Commission by the ~~[prosecuting attorney,]~~ ***special counsel,*** the statement and other documents later formally filed with the Commission must be made accessible to the public, and hearings must be open.

(b) If a formal statement of charges has not been filed with the Commission and the Commission holds a hearing to suspend a judge pursuant to NRS 1.4675, any transcript of the hearing and any documents offered as evidence at the hearing must be made accessible to the public.

2. Regardless of whether any formal statement of charges has been filed with the Commission, medical records and any other documents or

exhibits offered as evidence which are privileged pursuant to chapter 49 of NRS must not be made accessible to the public.

3. The Commission's deliberative sessions must remain private.

4. The filing of ~~[the]~~ ***a*** formal statement of charges does not justify the Commission, its counsel ***,*** ~~[or]~~ staff ***or independent contractors retained by the Commission*** in making public any correspondence, notes, work papers, interview reports or other evidentiary matter, except at the formal hearing or with explicit consent of the ~~[justice or]~~ judge named in the complaint.

Sec. 34. NRS 1.429, 1.4685 and 1.4693 are hereby repealed.

Sec. 35. **1. The amendatory provisions of this act apply only to:**

(a) A complaint filed with the Commission on Judicial Discipline on or after January 1, 2010; and

(b) Any formal statement of charges filed with the Commission on or after January 1, 2010, as a result of a complaint described in paragraph (a).

2. As used in this section:

(a) "Complaint" has the meaning ascribed to it in section 3 of this act.

(b) "Formal statement of charges" has the meaning ascribed to it in section 4 of this act.

Sec. 36. **This act becomes effective on January 1, 2010.**

TEXT OF REPEALED SECTIONS

1.429 "Justice" defined. "Justice" means a justice of the Supreme Court of the State of Nevada.

1.4685 Breach of confidentiality punishable as contempt. Except as otherwise provided in NRS 1.4693, any person who breaches the confidentiality of disciplinary proceedings of the Commission is punishable for contempt.

1.4693 Authorized disclosures by person who files complaint and person who gives testimony. Notwithstanding the provisions of NRS 1.4683 to 1.469, inclusive:

1. A person who files a complaint with the Commission may:

(a) At any time, reveal to a third party the alleged conduct of a justice or judge underlying the complaint that he filed with the Commission or the substance of testimony that he gave before the Commission.

(b) After the Commission makes a determination pursuant to NRS 1.467, regardless of whether the determination results in the filing of formal charges, reveal to a third party the fact that he filed a complaint with the Commission.

2. A person who gives testimony before the Commission may:

(a) At any time, reveal to a third party the substance of testimony that he gave before the Commission.

(b) After the Commission makes a determination pursuant to NRS 1.467, regardless of whether the determination results in the filing of formal

charges, reveal to a third party the fact that he gave testimony before the Commission.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 500.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 339.

AN ACT relating to domestic relations; revising provisions relating to adoptions; revising provisions relating to the termination of parental rights; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a person may consent to the adoption of his child, and the child will be relinquished either to an agency or to the person to whom consent to adopt is given, if the adoption is a specific adoption. (NRS 127.040, 127.053) **Section 2** of this bill provides that, in a specific adoption, the person to whom consent is given assumes legal custody and legal responsibility for the child as soon as consent for the adoption is executed.

~~[Sections 4-10 of this bill amend existing law to provide that if a person or a person's spouse is within the fourth degree of consanguinity of a child and is adopting the child, such a person is not required to comply with certain requirements for adoption, such as home studies of the prospective adoptive parents. (NRS 127.043, 127.045, 127.053, 127.120, 127.127, 127.280, 127.2805)]~~

Section 11 of this bill revises an exemption from criminal or civil liability for certain advertising mediums which accept advertisements concerning services related to adoptions from persons or agencies that are not licensed to provide such services. (NRS 127.310)

~~[Section 12 of this bill provides that a court may, under certain circumstances, terminate a father's parental rights if the father knew the child's mother was pregnant with the child and failed to support the mother during the pregnancy. (NRS 128.105)]~~

Section 13 of this bill provides that a court may find a parent unfit, and therefore, under certain circumstances, terminate his parental rights, if ~~[: (1) the parent is imprisoned and either cannot care for the child or the imprisonment will negatively impact the parent-child relationship; or (2) the father]~~ **the parent** is convicted of sexual ~~[seduction or statutory sexual seduction of the mother]~~ **assault** which resulted in the conception of the child. This section also provides that if a ~~[father's]~~ **parent's** parental rights are terminated because of the sexual assault ~~[or statutory sexual seduction]~~ which resulted in the conception of the child, the ~~[father's parental]~~ **parent's** obligation to provide support is not terminated ~~[.]~~ **and a court may order**

the parent to pay support for the child. (NRS 128.106) **However, an order to pay support for the child does not create any other rights arising from the parent and child relationship, including, without limitation, inheritance rights.**

Section 14 of this bill provides that certain sections of this bill may apply retroactively and prospectively to petitions for adoption and may apply only prospectively to petitions for the termination of parental rights.

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

Section 1. NRS 125B.120 is hereby amended to read as follows:

125B.120 1. The obligation of a parent other than that under the laws providing for the support of poor relatives is discharged by complying with a court order for support or with the terms of a judicially approved settlement.

2. ~~[The]~~ ***Except as otherwise provided in subsection ~~[9]~~ 7 of NRS 128.106, the*** legal adoption of the child into another family discharges the obligation of his natural parents for the period subsequent to the adoption.

Sec. 2. Chapter 127 of NRS is hereby amended by adding thereto a new section to read as follows:

A person to whom consent to adopt a child is given for a specific adoption pursuant to NRS 127.053 has, at the time the consent is executed, legal custody over the child and is legally responsible for the child until a court holds a hearing to enter an order or decree of adoption or to deny the petition pursuant to the laws of this State or another state.

Sec. 3. NRS 127.005 is hereby amended to read as follows:

127.005 The provisions of NRS 127.010 to 127.1895, inclusive, ***and section 2 of this act*** govern the adoption of minor children, and the provisions of NRS 127.190, 127.200 and 127.210 and the provisions of NRS 127.010 to 127.1895, inclusive, ***and section 2 of this act,*** where not inconsistent with the provisions of NRS 127.190, 127.200 and 127.210, govern the adoption of adults.

Sec. 4. ~~[NRS 127.043 is hereby amended to read as follows:~~

~~127.043 1. Except as otherwise provided in subsection 2, a child must not be placed in an adoptive home until a valid release for or consent to adoption is executed by the mother as provided by NRS 127.070.~~

~~2. The provisions of this section do not apply if one petitioner or the spouse of a petitioner is related to the child within the~~ [third] ***~~fourth~~*** ~~degree of consanguinity.~~] **(Deleted by amendment.)**

Sec. 5. ~~[NRS 127.045 is hereby amended to read as follows:~~

~~127.045 1. Except as otherwise provided in subsection 2, until a valid release for or consent to adoption is executed by the mother as provided by NRS 127.070 and the investigation required by NRS 127.2805 is completed, no person may:~~

~~(a) Petition any court for the appointment of a guardian; or~~

~~(b) Be appointed the temporary guardian,~~

~~.~~ of the person of the child to be adopted.

~~2. The provisions of subsection 1 do not apply to any person who is related or whose spouse is related to the child within the~~ [third] ***fourth*** ~~degree of consanguinity.~~] **(Deleted by amendment.)**

Sec. 6. ~~[NRS 127.053 is hereby amended to read as follows:~~

~~127.053 No consent to a specific adoption executed in this State, or executed outside this State for use in this State, is valid unless it:~~

~~1. Identifies the child to be adopted by name, if any, sex and date of birth.~~

~~2. Is in writing and signed by the person consenting to the adoption as required in this chapter.~~

~~3. Is acknowledged by the person consenting and signing the consent to adoption in the manner and form required for conveyances of real property.~~

~~4. Contains, at the time of execution, the name of the person or persons to whom consent to adopt the child is given.~~

~~5. Is attested by at least two competent, disinterested witnesses who subscribe their names to the consent in the presence of the person consenting. If neither the petitioner nor the spouse of a petitioner is related to the child within the~~ [third] ***fourth*** ~~degree of consanguinity, then one of the witnesses must be a social worker employed by:~~

~~(a) An agency which provides child welfare services;~~

~~(b) An agency licensed in this state to place children for adoption;~~

~~(c) A comparable state or county agency of another state; or~~

~~(d) An agency authorized under the laws of another state to place children for adoption, if the natural parent resides in that state.~~] **(Deleted by amendment.)**

Sec. 7. ~~[NRS 127.120 is hereby amended to read as follows:~~

~~127.120 1. A petition for adoption of a child must be filed in duplicate with the county clerk. The county clerk shall send one copy of the petition to the agency which provides child welfare services.~~

~~2. The agency which provides child welfare services shall make an investigation and report as provided in this section. If one petitioner or the spouse of a petitioner is related to the child within the~~ [third] ***fourth*** ~~degree of consanguinity, the court may, in its discretion, waive the investigation by the agency which provides child welfare services. A copy of the order waiving the investigation must be sent to the nearest office of the agency which provides child welfare services by the petitioners within 7 days after the order is issued.~~

~~3. The agency which provides child welfare services or a licensed child-placing agency designated to do so by the court shall:~~

~~(a) Verify the allegations of the petition;~~

~~(b) Investigate the condition of the child, including, without limitation, whether the child is an Indian child; and~~

~~(c) Make proper inquiry to determine whether the proposed adopting parents are suitable for the child.~~

~~4. The agency which provides child welfare services or the designated child-placing agency shall, before the date on which the child has lived for a period of 6 months in the home of the petitioners or within 30 days after receiving the copy of the petition for adoption, whichever is later, submit to the court a full written report of its findings pursuant to subsection 3, which must contain, without limitation, a specific recommendation for or against approval of the petition and a statement of whether the child is known to be an Indian child, and shall furnish to the court any other information regarding the child or proposed home which the court requires. The court, on good cause shown, may extend the time, designating a time certain, within which to submit the report.~~

~~5. If the court is dissatisfied with the report submitted by the agency which provides child welfare services or the designated child-placing agency, the court may order an independent investigation to be conducted and a report submitted by an agency or person selected by the court. The costs of the investigation and report may be assessed against the petitioner or charged against the county in which the adoption proceeding is pending.~~**] (Deleted by amendment.)**

Sec. 8. ~~[NRS 127.127 is hereby amended to read as follows:~~

~~127.127 The petitioners shall file with the court, within 15 days after the petition is filed or 5 months after the child begins to live in their home, whichever is later, an affidavit executed by them and their attorney setting forth all fees, donations and expenses paid by them in furtherance of the adoption. A copy of the affidavit must be sent to the agency which provides child welfare services. If one petitioner or the spouse of a petitioner is related to the child within the~~ **[**~~third~~**]** ***fourth*** ~~degree of consanguinity, the court may waive the filing of the affidavit.~~**] (Deleted by amendment.)**

Sec. 9. ~~[NRS 127.280 is hereby amended to read as follows:~~

~~127.280 1. A child may not be placed in the home of prospective adoptive parents for the 30-day residence in that home which is required before the filing of a petition for adoption, except where a child and one of the prospective adoptive parents are related within the~~ **[**~~third~~**]** ***fourth*** ~~degree of consanguinity, unless:~~

~~(a) The agency which provides child welfare services or a child placing agency first receives written notice of the proposed placement from:~~

~~(1) The prospective adoptive parents of the child;~~

~~(2) The person recommending the placement; or~~

~~(3) A natural parent;~~

~~(b) The investigation required by the provisions of NRS 127.2805 has been completed; and~~

~~(c) In the case of a specific adoption, the natural parent placing the child for adoption has had an opportunity to review the report on the investigation of the home, if possible.~~

~~2. Upon receipt of written notice from any person other than the natural parent, the agency which provides child welfare services or child placing~~

~~agency shall communicate with the natural parent to confirm his intention to place the child for adoption with the prospective adoptive parents identified in the written notice.~~] **(Deleted by amendment.)**

Sec. 10. ~~[NRS 127.2805 is hereby amended to read as follows:~~

~~127.2805 1. The agency which provides child welfare services or a child-placing agency shall, within 60 days after receipt of confirmation of the natural parents' intent to place the child for adoption and a completed application for adoption from the prospective adoptive parents, complete an investigation of the medical, mental, financial and moral backgrounds of the prospective adoptive parents to determine the suitability of the home for placement of the child for adoption. The investigation must also embrace any other relevant factor relating to the qualifications of the prospective adoptive parents and may be a substitute for the investigation required to be conducted by the agency which provides child welfare services on behalf of the court when a petition for adoption is pending, if the petition for adoption is filed within 6 months after the completion of the investigation required by this subsection. If a child-placing agency undertakes the investigation, it shall provide progress reports to the agency which provides child welfare services in such a format and at such times as the agency which provides child welfare services requires to ensure that the investigation will be completed within the 60-day period. If, at any time, the agency which provides child welfare services determines that it is unlikely that the investigation will be completed in a timely manner, the agency which provides child welfare services shall take over the investigation and complete it within the 60-day period or as soon thereafter as practicable.~~

~~2. If the placement is to be made in a home outside of this state, the agency which provides child welfare services or child-placing agency must receive a copy of a report, completed by the appropriate authority, of an investigation of the home and the medical, mental, financial and moral backgrounds of the prospective adoptive parents to determine the suitability of the home for placement of the child for adoption, unless the child and one of the prospective adoptive parents are related within the [third]~~ ***fourth*** ~~degree of consanguinity.~~] **(Deleted by amendment.)**

Sec. 11. NRS 127.310 is hereby amended to read as follows:

127.310 1. Except as otherwise provided in NRS 127.240, 127.283 and 127.285, any person or organization other than an agency which provides child welfare services who, without holding a valid unrevoked license to place children for adoption issued by the Division:

(a) Places, arranges the placement of, or assists in placing or in arranging the placement of, any child for adoption or permanent free care; or

(b) Advertises in any periodical or newspaper, or by radio or other public medium, that he will place children for adoption, or accept, supply, provide or obtain children for adoption, or causes any advertisement to be published in or by any public medium soliciting, requesting or asking for any child or children for adoption,

➥ is guilty of a misdemeanor.

2. Any person who places, accepts placement of, or aids, abets or counsels the placement of any child in violation of NRS 127.280, 127.2805 and 127.2815 is guilty of a misdemeanor.

3. A periodical, newspaper, radio station or other public medium is not subject to any criminal penalty ~~[or civil liability]~~ for publishing or broadcasting an advertisement that violates the provisions of this section ~~[.]~~ ~~*[if]*~~ ***unless the periodical, newspaper, radio station or other public medium*** ~~*[did not know]*~~ ***knew that the advertisement violated the provisions of this section.***

Sec. 12. ~~[~~NRS 128.105 is hereby amended to read as follows:

128.105 ~~The primary consideration in any proceeding to terminate parental rights must be whether the best interests of the child will be served by the termination. An order of the court for the termination of parental rights must be made in light of the considerations set forth in this section and NRS 128.106 to 128.109, inclusive, and based on evidence and include a finding that:~~

~~1. The best interests of the child would be served by the termination of parental rights; and~~

~~2. The conduct of the parent or parents was the basis for a finding made pursuant to subsection 3 of NRS 432B.393 or demonstrated at least one of the following:~~

~~(a) Abandonment of the child;~~

~~(b) Neglect of the child;~~

~~(c) Unfitness of the parent;~~

~~(d) Failure of parental adjustment;~~

~~(e) Risk of serious physical, mental or emotional injury to the child if he were returned to, or remains in, the home of his parent or parents;~~

~~(f) Only token efforts by the parent or parents:~~

~~(1) To support or communicate with the child;~~

~~(2) To prevent neglect of the child;~~

~~(3) To avoid being an unfit parent; or~~

~~(4) To eliminate the risk of serious physical, mental or emotional injury to the child; [or]~~

~~(g) With respect to termination of the parental rights of one parent, the abandonment by that parent [.]~~ ~~***; or***~~

~~***(h) If a father or putative father knew the child's mother was pregnant with the child, failure by the father or putative father, without reasonable cause, to provide for the support of the child's mother during the pregnancy, resulting in an abandoned mother as defined in NRS 128.011.]***~~ **(Deleted by amendment.)**

Sec. 13. NRS 128.106 is hereby amended to read as follows:

128.106 In determining neglect by or unfitness of a parent, the court shall consider, without limitation, the following conditions which may diminish suitability as a parent:

1. Emotional illness, mental illness or mental deficiency of the parent which renders the parent consistently unable to care for the immediate and continuing physical or psychological needs of the child for extended periods of time. The provisions contained in NRS 128.109 apply to the case if the child has been placed outside his home pursuant to chapter 432B of NRS.

2. Conduct toward a child of a physically, emotionally or sexually cruel or abusive nature.

3. Conduct that violates any provision of NRS 200.463, 200.464 or 200.465.

4. Excessive use of intoxicating liquors, controlled substances or dangerous drugs which renders the parent consistently unable to care for the child.

5. Repeated or continuous failure by the parent, although physically and financially able, to provide the child with adequate food, clothing, shelter, education or other care and control necessary for his physical, mental and emotional health and development, but a person who, legitimately practicing his religious beliefs, does not provide specified medical treatment for a child is not for that reason alone a negligent parent.

6. ~~*[Imprisonment of the parent for at least 1 year from the date of the child's entry into foster care, which results in the inability of the parent to care for the child, and no appropriate relative can care for the child during this time or the parent has not otherwise provided for the child's care.*~~

~~*7. Imprisonment of the parent which has a demonstrable negative effect on the quality of the relationship between the parent and the child.*~~

~~*8.]*~~ Conviction of the parent for commission of a felony, if the facts of the crime are of such a nature as to indicate the unfitness of the parent to provide adequate care and control to the extent necessary for the child's physical, mental or emotional health and development.

7. ~~*[9.]*~~ ***Conviction of the*** ~~*[father or putative father]*~~ ***parent of sexual assault*** ~~*[or statutory sexual seduction]*~~ ***resulting in the conception of the child. If a court terminates parental rights based on a finding that the*** ~~*[father]*~~ ***parent is unfit pursuant to this subsection, the obligation of the*** ~~*[father or putative father]*~~ ***parent to support the child pursuant to chapter 125B of NRS is not terminated*** ~~*[. A court shall]*~~ ***and the court may issue an order of support for the child, requiring the*** ~~*[father or putative father]*~~ ***parent to comply with the support obligations pursuant to chapter 125B of NRS. If a court issues an order of support pursuant to this subsection, the order does not create:***

(a) A right for the child to inherit property from or through the parent who is subject to the order of support issued pursuant to this subsection;

(b) A right for the parent who is subject to the order of support issued pursuant to this subsection to inherit property from or through the child; or

(c) Any of the other rights, privileges or obligations arising from the parent and child relationship.

~~*[10.]*~~ ***8.*** Unexplained injury or death of a sibling of the child.

~~[8.]~~ ~~*[11.]*~~ ***9.*** Inability of appropriate public or private agencies to reunite the family despite reasonable efforts on the part of the agencies.

Sec. 14. The amendatory provisions of:

1. Sections ~~[2 to 10, inclusive,]~~ **1 and 13** of this act apply to a petition for ~~[adoption that is filed]~~ **the termination of parental rights** pursuant to chapter ~~[127]~~ **128** of NRS ~~[before,]~~ **that is filed** on or after October 1, 2009.

2. Sections ~~[1, 12 and 13]~~ **2 and 3** of this act apply to a petition for ~~[the termination of parental rights]~~ **adoption that is filed** pursuant to chapter ~~[128]~~ **127** of NRS ~~[that is filed]~~ **before,** on or after October 1, 2009.

Assemblyman Segerblom moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Government Affairs, to which were referred Assembly Bills Nos. 223, 236, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Judiciary, to which was referred Assembly Bill No. 368, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BERNIE ANDERSON, *Chairman*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bills Nos. 223, 236, and 368 just reported out committee, be placed on the Second Reading File.

Motion carried.

Assemblyman Anderson moved that Assembly Bill No. 309 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 223.

Bill read second time.

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

Amendment No. 229.

AN ACT relating to state governmental procurement; establishing bidders' preferences **for local businesses and local businesses owned by service-disabled veterans** with respect to state purchasing contracts **;** ~~[for service-disabled veterans and bona fide Nevada residents;]~~ establishing bidders' preferences **for local businesses owned by service-disabled veterans** with respect to state public works contracts **;** ~~[for service-disabled veterans;]~~ and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law, with respect only to contracts for public works for which the estimated cost exceeds $250,000, provides a mechanism by which a contractor who has paid certain taxes may earn a 5-percent preference in bidding on public works. (NRS 338.1389, 338.147, 338.1693, 338.1727) **Sections ~~[8-11]~~ 18-25** of this bill establish a limited preference in bidding on public works for **~~[~~~~small~~~~]~~ local** businesses owned by service-disabled veterans. This new preference in bidding on public works does not overlap with the existing preference in bidding on public works because the new preference is limited to public works for which the estimated cost is $100,000 or less.

Under existing law, the State of Nevada imposes an inverse preference against a person who submits a bid or proposal on a state purchasing contract if that person is a resident of a state that denies a preference to bidders or contractors who are residents of this State. (NRS 333.336) **Section ~~[12]~~ 31** of this bill repeals that inverse preference.

In place of the former inverse preference, **sections ~~[2-7]~~ 5-13** of this bill establish two separate new preferences in bidding on state purchasing contracts: (1) **section ~~[2]~~ 10** adds **~~[one]~~ a** 5-percent preference for **~~[~~~~small~~~~]~~ local** businesses **;** **~~[owned by service-disabled veterans;]~~** and (2) **section ~~[3]~~ 10 also** adds **~~[one]~~ a** 5-percent preference for **local** businesses owned by **~~[bona fide residents of this State.]~~ service-disabled veterans. ~~[Pursuant to section 4 of this bill, the two preceding preferences in bidding on state purchasing contracts may be combined, but may not together convey a total preference exceeding 10 percent.]~~**

Section 30 of this bill directs the Office of Veterans' Services to perform certain duties with respect to gathering information and making recommendations to the Legislative Commission concerning the preferences for local businesses owned by service-disabled veterans.

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

Section 1. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections **~~[2, 3 and 4]~~ 5 to 13, inclusive,** of this act.

Sec. 2. ~~***[1. For the purpose of awarding a contract pursuant to this chapter, if a small business owned by a service-disabled veteran submits a bid or proposal and, at the time the bid is submitted, has a valid certificate of eligibility to receive a preference in bidding on state purchasing contracts issued by the Commission on Economic Development pursuant to subsection 2, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.***~~

~~***2. The Commission on Economic Development shall issue a certificate of eligibility to receive a preference in bidding on state purchasing contracts to a small business owned by a service-disabled veteran if:***~~

~~*(a) The business submits to the Commission an application on a form prescribed by the Commission;*~~

~~*(b) The business satisfies the definition of a small business owned by a service-disabled veteran set forth in paragraph (c) of subsection 5; and*~~

~~*(c) The business satisfies any other requirements imposed by the Commission by regulation pursuant to subsection 3.*~~

~~*3. The Commission on Economic Development, in consultation with the Purchasing Division, shall adopt such regulations as it deems necessary to carry out the provisions of this section. The regulations adopted pursuant to this subsection must set forth, without limitation:*~~

~~*(a) Procedures by which the preference in bidding described in subsection 2 may be transferred to the spouse of a service-disabled veteran upon the death of that veteran.*~~

~~*(b) A mechanism by which a business that is determined to have made a material misrepresentation or otherwise committed a fraudulent act when applying for the preference in bidding described in subsection 2 is thereafter permanently prohibited from:*~~

~~*(1) Applying for or receiving the preference in bidding described in subsection 2; and*~~

~~*(2) Bidding on a state purchasing contract pursuant to this chapter.*~~

~~*(c) The specific documentation or other proof that a business must submit to the Commission to demonstrate that it satisfies the definition of a small business owned by a service-disabled veteran set forth in paragraph (c) of subsection 5.*~~

~~*(d) The duration of the preference in bidding described in subsection 2, which must not be less than 1 year or more than 3 years.*~~

~~*(e) The method by which a business may reapply for the preference in bidding described in subsection 2.*~~

~~*4. The Office of Veterans' Services shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:*~~

~~*(a) The number of small businesses owned by service-disabled veterans to which the Commission on Economic Development has issued a certificate pursuant to subsection 2;*~~

~~*(b) The number of small businesses owned by service-disabled veterans that have submitted a bid or proposal on a state purchasing contract;*~~

~~*(c) The number of state purchasing contracts that have been awarded to small businesses owned by service-disabled veterans; and*~~

~~*(d) The total number of dollars worth of state purchasing contracts that have been awarded to small businesses owned by service-disabled veterans.*~~

~~*5. As used in this section:*~~

~~*(a) "Bona fide resident" means a person who has:*~~

~~*(1) Established a residence in the State of Nevada; and*~~

~~*(2) Actually resided in this State for at least 6 months or has a valid driver's license or identification card issued by the Department of Motor Vehicles of this State.*~~

~~*(b) "Service-disabled veteran" means a veteran of the Armed Forces of the United States who:*~~

~~*(1) Is a bona fide resident; and*~~

~~*(2) Has a service-connected disability of zero percent or greater as determined by the United States Department of Veterans Affairs.*~~

~~*(c) "Small business owned by a service-disabled veteran" means a business:*~~

~~*(1) At least 51 percent of which is owned by one or more service-disabled veterans;*~~

~~*(2) That is managed and operated on a day-to-day basis by one or more service-disabled veterans;*~~

~~*(3) That employs fewer than 100 employees;*~~

~~*(4) That has a net worth of $5,000,000 or less or, if a sole proprietorship, has a net worth of $5,000,000 or less including both business and personal investments;*~~

~~*(5) That is organized to engage in commercial transactions; and*~~

~~*(6) Whose main office or principal place of business is located in this State.]*~~ **(Deleted by amendment.)**

Sec. 3. ~~*[1. For the purpose of awarding a contract pursuant to this chapter, if a business owned by a bona fide resident submits a bid or proposal and, at the time it submits its bid, has a valid certificate of eligibility to receive a preference in bidding on state purchasing contracts issued by the Purchasing Division pursuant to subsection 2, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.*~~

~~*2. The Purchasing Division shall issue a certificate of eligibility to receive a preference in bidding on state purchasing contracts to a business owned by a bona fide resident if:*~~

~~*(a) The business submits to the Purchasing Division an application on a form prescribed by the Purchasing Division;*~~

~~*(b) The business satisfies the definition of a business owned by a bona fide resident set forth in paragraph (b) of subsection 5; and*~~

~~*(c) The business satisfies any other requirements imposed by the Division by regulation pursuant to subsection 3.*~~

~~*3. The Purchasing Division shall adopt such regulations as it deems necessary to carry out the provisions of this section. The regulations adopted pursuant to this subsection must set forth, without limitation:*~~

~~*(a) Procedures by which the preference in bidding described in subsection 2, upon the death of a person who wholly or partially owns a business that holds such a preference, may be transferred to the spouse of the decedent.*~~

~~*(b) A mechanism by which a business that is determined to have made a material misrepresentation or otherwise committed a fraudulent act when applying for the preference in bidding described in subsection 2 is thereafter permanently prohibited from:*~~

~~*(1) Applying for or receiving the preference in bidding described in subsection 2; and*~~

~~*(2) Bidding on a state purchasing contract pursuant to this chapter.*~~

~~*(c) The specific documentation or other proof that a business must submit to the Purchasing Division to demonstrate that it satisfies the definition of a business owned by a bona fide resident set forth in paragraph (b) of subsection 5.*~~

~~*(d) The duration of the preference in bidding described in subsection 2, which must not be less than 1 year or more than 3 years.*~~

~~*(e) The method by which a business may reapply for the preference in bidding described in subsection 2.*~~

~~*4. The Chief shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:*~~

~~*(a) The number of businesses owned by bona fide residents to which the Purchasing Division has issued a certificate pursuant to subsection 2;*~~

~~*(b) The number of businesses owned by bona fide residents that have submitted a bid or proposal on a state purchasing contract;*~~

~~*(c) The number of state purchasing contracts that have been awarded to businesses owned by bona fide residents; and*~~

~~*(d) The total number of dollars worth of state purchasing contracts that have been awarded to businesses owned by bona fide residents.*~~

~~*5. As used in this section:*~~

~~*(a) "Bona fide resident" means a person who has:*~~

~~*(1) Established a residence in the State of Nevada; and*~~

~~*(2) Actually resided in this State for at least 6 months or has a valid driver's license or identification card issued by the Department of Motor Vehicles of this State.*~~

~~*(b) "Business owned by a bona fide resident" means a business:*~~

~~*(1) At least 51 percent of which is owned by one or more bona fide residents;*~~

~~*(2) That is managed and operated on a day to day basis by one or more bona fide residents;*~~

~~*(3) That is organized to engage in commercial transactions; and*~~

~~*(4) Whose main office or principal place of business is located in this State.]*~~ **(Deleted by amendment.)**

Sec. 4. ~~*[A person submitting a bid or proposal may qualify for both of the preferences described in sections 2 and 3 of this act. However, in no event may the bid or proposal be deemed to be more than 10 percent lower than the bid or proposal actually submitted.]*~~ **(Deleted by amendment.)**

Sec. 5. ***As used in sections 5 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 6. ***"Business owned by a service-disabled veteran" means a business:***

1. Of which at least 51 percent of the ownership interest is held by one or more service-disabled veterans;

2. That is organized to engage in commercial transactions; and

3. That is managed and operated on a day-to-day basis by one or more service-disabled veterans.

➥ The term includes a business which meets the above requirements that is transferred to the spouse of a service-disabled veteran upon the death of the service-disabled veteran, as determined by the United States Department of Veterans Affairs.

Sec. 7. ***"Local business" means a business that:***

1. Employs at least one person in this State; and

2. Has employed at least one person in this State for not fewer than 2 years.

Sec. 8. ***"Service-disabled veteran" means a veteran of the Armed Forces of the United States who has a service-connected disability of at least zero percent as determined by the United States Department of Veterans Affairs.***

Sec. 9. ***"State purchasing contract" means a contract awarded pursuant to the provisions of this chapter.***

Sec. 10. ***For the purpose of awarding a formal contract solicited pursuant to subsection 2 of NRS 333.300:***

1. If a local business submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.

2. If a local business owned by a service-disabled veteran submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.

Sec. 11. ***1. If the Purchasing Division determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 10 of this act, the business is thereafter permanently prohibited from:***

(a) Applying for or receiving the preference described in section 10 of this act; and

(b) Bidding on a state purchasing contract.

2. If the Purchasing Division determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 10 of this act, the business may apply to the Chief to review the decision pursuant to chapter 233B of NRS.

Sec. 12. ***The Purchasing Division shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:***

1. The number of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

2. The total dollar amount of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

3. The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a state purchasing contract.

4. The number of local businesses not described in subsection 3 that submitted a bid or proposal on a state purchasing contract.

5. The number of state purchasing contracts that were awarded to local businesses owned by service-disabled veterans.

6. The number of state purchasing contracts that were awarded to local businesses not described in subsection 5.

7. The total number of dollars worth of state purchasing contracts that were awarded to local businesses owned by service-disabled veterans.

8. The total number of dollars worth of state purchasing contracts that were awarded to local businesses not described in subsection 7.

9. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

Sec. 13. ***The Purchasing Division may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 5 to 13, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:***

1. The method by which a business may apply to receive a preference described in section 10 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for a preference described in section 10 of this act; and

3. Such other matters as the Purchasing Division deems relevant.

➥ In carrying out the provisions of this section, the Purchasing Division shall, to the extent practicable, cooperate and coordinate with the State Public Works Board so that any regulations adopted pursuant to this section and section 25 of this act are reasonably consistent.

~~[Sec. 5.]~~ ***Sec. 14.*** NRS 333.310 is hereby amended to read as follows:

333.310 1. An advertisement must contain a general description of the classes of commodities or services for which a bid or proposal is wanted and must state:

(a) The name and location of the department, agency, local government, district or institution for which the purchase is to be made.

(b) Where and how specifications and quotation forms may be obtained.

(c) If the advertisement is for bids, whether the Chief is authorized by the using agency to be supplied to consider a bid for an article that is an alternative to the article listed in the original request for bids if:

(1) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(2) The purchase of the alternative article results in a lower price; and

(3) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(d) A summary of the provisions of ~~[~~NRS 333.336.~~]~~ ***sections*** ~~*[2, 3 and 4]*~~ ***5 to 13, inclusive, of this act.***

(e) The date and time not later than which responses must be received by the Purchasing Division.

(f) The date and time when responses will be opened.

➥ The Chief or his designated agent shall approve the copy for the advertisement.

2. Each advertisement must be published in at least one newspaper of general circulation in the State. The selection of the newspaper to carry the advertisement must be made in the manner provided by this chapter for other purchases, on the basis of the lowest price to be secured in relation to the paid circulation.

~~[~~Sec. 6.~~]~~ ***Sec. 15.*** NRS 333.335 is hereby amended to read as follows:

333.335 1. Each proposal must be evaluated by:

(a) The chief of the using agency, or a committee appointed by the chief of the using agency in accordance with the regulations adopted pursuant to NRS 333.135, if the proposal is for a using agency; or

(b) The Chief of the Purchasing Division, or a committee appointed by the Chief in accordance with the regulations adopted pursuant to NRS 333.135, if he is responsible for administering the proposal.

2. A committee appointed pursuant to subsection 1 must consist of not less than two members. A majority of the members of the committee must be state officers or employees. The committee may include persons who are not state officers or employees and possess expert knowledge or special expertise that the chief of the using agency or the Chief of the Purchasing Division determines is necessary to evaluate a proposal. The members of the committee are not entitled to compensation for their service on the committee, except that members of the committee who are state officers or employees are entitled to receive their salaries as state officers and employees. No member of the committee may have a financial interest in a proposal.

3. In making an award, the chief of the using agency, the Chief of the Purchasing Division or each member of the committee, if a committee is established, shall consider and assign a score for each of the following factors for determining whether the proposal is in the best interests of the State of Nevada:

(a) The experience and financial stability of the person submitting the proposal;

(b) Whether the proposal complies with the requirements of the request for proposals as prescribed in NRS 333.311;

(c) The price of the proposal, including the ~~[imposition]~~ ***granting*** of ~~[an inverse preference]~~ ***any of the preferences*** described in ~~[NRS 333.336,]~~ ~~*[sections 2 and 3]*~~ ***section 10 of this act,*** if applicable; and

(d) Any other factor disclosed in the request for proposals.

4. The chief of the using agency, the Chief of the Purchasing Division or the committee, if a committee is established, shall determine the relative weight of each factor set forth in subsection 3 before a request for proposals is advertised. The weight of each factor must not be disclosed before the date proposals are required to be submitted.

5. The chief of the using agency, the Chief of the Purchasing Division or the committee, if a committee is established, shall award the contract based on the best interests of the State, as determined by the total scores assigned pursuant to subsection 3, and is not required to accept the lowest-priced proposal.

6. Except as otherwise provided in NRS 239.0115, each proposal evaluated pursuant to the provisions of this section is confidential and may not be disclosed until the contract is awarded.

~~[Sec. 7.]~~ ***Sec. 16.*** NRS 333.340 is hereby amended to read as follows:

333.340 1. Every contract or order for goods must be awarded to the lowest responsible bidder. To determine the lowest responsible bidder, the Chief:

(a) Shall consider, if applicable, the ~~[imposition]~~ ***granting*** of ***any of*** the ~~[inverse preference]~~ ***preferences*** described in ~~[NRS 333.336.]~~ ~~*[sections 2 and 3]*~~ ***section 10 of this act.***

(b) May consider:

(1) The location of the using agency to be supplied.

(2) The qualities of the articles to be supplied.

(3) The total cost of ownership of the articles to be supplied.

(4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.

(5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:

(I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(II) The purchase of the alternative article results in a lower price; and

(III) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(6) The purposes for which the articles to be supplied are required.

(7) The dates of delivery of the articles to be supplied.

2. If a contract or an order is not awarded to the lowest bidder, the Chief shall provide the lowest bidder with a written statement which sets forth the specific reasons that the contract or order was not awarded to him.

3. As used in this section, "total cost of ownership" includes, but is not limited to:

(a) The history of maintenance or repair of the articles;

(b) The cost of routine maintenance and repair of the articles;

(c) Any warranties provided in connection with the articles;

(d) The cost of replacement parts for the articles; and

(e) The value of the articles as used articles when given in trade on a subsequent purchase.

~~[Sec. 8.]~~ ***Sec. 17.*** Chapter 338 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 18 to 25, inclusive, of this act.**

Sec. 18. ***As used in sections 18 to 25, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 19, 20 and 21 of this act have the meanings ascribed to them in those sections.***

Sec. 19. ***"Business owned by a service-disabled veteran" has the meaning ascribed to it in section 6 of this act.***

Sec. 20. ***"Local business" has the meaning ascribed to it in section 7 of this act.***

Sec. 21. ***"Service-disabled veteran" has the meaning ascribed to it in section 8 of this act.***

Sec. 22. 1. For the purpose of awarding a contract for a public work of this State for which the estimated cost is $100,000 or less, as governed by NRS 338.13862, if a ~~*[small]*~~ ***local business owned by a service-disabled veteran submits a bid*** **,** ~~*[and, at the time it submits its bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued by the Commission on Economic Development pursuant to subsection 2,]*~~ ***the bid shall be deemed to be 5 percent lower than the bid actually submitted.***

2. The ~~*[Commission on Economic Development shall issue a certificate of eligibility to receive a preference in bidding on public works to a small business owned by a service-disabled veteran if:*~~

~~*(a) The business submits to the Commission an application on a form prescribed by the Commission;*~~

~~*(b) The business satisfies the definition of a small business owned by a service-disabled veteran set forth in paragraph (c) of subsection 5; and*~~

~~*(c) The business satisfies any other requirements imposed by the Commission by regulation pursuant to subsection 3.*~~

~~*3. The Commission on Economic Development, in consultation with the State Public Works Board, shall adopt such regulations as it deems necessary to carry out the provisions of this section. The regulations adopted pursuant to this subsection must set forth, without limitation:*~~

~~*(a) Procedures by which the preference in bidding described in subsection 2 may be transferred to the spouse of a service-disabled veteran upon the death of that veteran.*~~

~~*(b) A mechanism by which a business that is determined to have made a material misrepresentation or otherwise committed a fraudulent act when applying for the preference in bidding described in subsection 2 is thereafter permanently prohibited from:*~~

~~*(1) Applying for or receiving the preference in bidding described in subsection 2; and*~~

~~*(2) Bidding on a contract for a public work pursuant to this chapter.*~~

~~*(c) The specific documentation or other proof that a business must submit to the Commission to demonstrate that it satisfies the definition of a small business owned by a service-disabled veteran set forth in paragraph (c) of subsection 5.*~~

~~*(d) The duration of the preference in bidding described in subsection 2, which must not be less than 1 year or more than 3 years.*~~

~~*(e) The method by which a business may reapply for the preference in bidding described in subsection 2.*~~

~~*4. The Office of Veterans' Services shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:*~~

~~*(a) The number of small businesses owned by service-disabled veterans to which the Commission on Economic Development has issued a certificate pursuant to subsection 2;*~~

~~*(b) The number of small businesses owned by service-disabled veterans that have submitted a bid on a contract for a public work;*~~

~~*(c) The number of contracts for public works that have been awarded to small businesses owned by service-disabled veterans; and*~~

~~*(d) The total number of dollars worth of contracts for public works that have been awarded to small businesses owned by service-disabled veterans.*~~

~~*5. As used in this section:*~~

~~*(a) "Bona fide resident" means a person who has:*~~

~~*(1) Established a residence in the State of Nevada; and*~~

~~*(2) Actually resided in this State for at least 6 months or has a valid driver's license or identification card issued by the Department of Motor Vehicles of this State.*~~

~~*(b) "Service-disabled veteran" means a veteran of the Armed Forces of the United States who:*~~

~~*(1) Is a bona fide resident; and*~~

~~*(2) Has a service-connected disability of zero percent or greater as determined by the United States Department of Veterans Affairs.*~~

~~*(c) "Small business owned by a service-disabled veteran" means a business:*~~

~~*(1) At least 51 percent of which is owned by one or more service-disabled veterans;*~~

~~*(2) That is managed and operated on a day-to-day basis by one or more service-disabled veterans;*~~

~~*(3) That employs fewer than 100 employees;*~~

~~*(4) That has a net worth of $5,000,000 or less or, if a sole proprietorship, has a net worth of $5,000,000 or less including both business and personal investments;*~~

~~*(5) That is organized to engage in commercial transactions; and*~~

~~*(6) Whose main office or principal place of business is located in this State.]*~~ ***preference described in subsection 1 may not be combined with any other preference.***

Sec. 23. 1. If the State Public Works Board determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business is thereafter permanently prohibited from:

(a) Applying for or receiving the preference described in section 22 of this act; and

(b) Bidding on a contract for a public work of this State.

2. If the State Public Works Board determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business may apply to the Manager to review the decision pursuant to chapter 233B of NRS.

3. As used in this section, "Manager" has the meaning ascribed to it in NRS 341.015.

Sec. 24. The State Public Works Board shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:

1. The number of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.

2. The total dollar amount of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.

3. The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a contract for a public work of this State.

4. The number of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.

5. The total number of dollars worth of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.

6. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

Sec. 25. ***The State Public Works Board may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 18 to 25, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:***

1. The method by which a business may apply to receive the preference described in section 22 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for the preference described in section 22 of this act; and

3. Such other matters as the State Public Works Board deems relevant.

➥ In carrying out the provisions of this section, the State Public Works Board shall, to the extent practicable, cooperate and coordinate with the Purchasing Division of the Department of Administration so that any regulations adopted pursuant to this section and section 13 of this act are reasonably consistent.

Sec. 26. **NRS 338.1375 is hereby amended to read as follows:**

338.1375 1. The State Public Works Board shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the State Public Works Board pursuant to this section must be used by the State Public Works Board to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.13895 ~~[.]~~ ***or section 23 of this act;***

(5) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

(6) The truthfulness and completeness of the application.

~~[Sec. 9.]~~ ***Sec. 27.*** 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 ~~[.]~~ ***and*** ~~*[section 8]*~~ ***sections 18 to 25, inclusive, of this act.***

(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;

(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 NRS 338.1435; 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 NRS 338.169 to 338.1699, inclusive.

~~[Sec. 10.]~~ ***Sec. 28.*** 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 ~~[.]~~ ***and*** ~~*[section 8]*~~ ***sections 18 to 25, inclusive, of this act.***

(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;

(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 NRS 338.1435; 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 NRS 338.169 to 338.1699, inclusive.

~~[Sec. 11.]~~ ***Sec. 29.*** NRS 338.13862 is hereby amended to read as follows:

338.13862 1. Before this State or a local government awards a contract for the completion of a public work in accordance with subsection 1 of NRS 338.1386, the State or the local government must:

(a) If the estimated cost of the public work is more than $25,000 but not more than $100,000, solicit bids from at least three properly licensed contractors; and

(b) If the estimated cost of the public work is $25,000 or less, solicit a bid from at least one properly licensed contractor.

2. Any bids received in response to a solicitation for bids made pursuant to this section may be rejected if the State or the local government determines that:

(a) The quality of the services, materials, equipment or labor offered does not conform to the approved plan or specifications;

(b) The bidder is not responsive or responsible; or

(c) The public interest would be served by such a rejection.

3. At least once each quarter, the State and each local government shall prepare a report detailing, for each public work over $25,000 for which a contract for its completion is awarded pursuant to paragraph (a) of subsection 1, if any:

(a) The name of the contractor to whom the contract was awarded;

(b) The amount of the contract awarded;

(c) A brief description of the public work; and

(d) The names of all contractors from whom bids were solicited.

4. A report prepared pursuant to subsection 3 is a public record and must be maintained on file at the administrative offices of the applicable public body.

5. The provisions of this section do not relieve this State from the duty to award the contract for the public work to a bidder who is:

(a) Qualified pursuant to the applicable provisions of NRS 338.1375 to 338.1382, inclusive; and

(b) The lowest responsive and responsible bidder, if bids are required to be solicited from more than one properly licensed contractor pursuant to subsection 1. ***For the purposes of this paragraph, the lowest responsive and responsible bidder must be determined in consideration of any applicable bidder's preference granted pursuant to section*** ~~*[8]*~~ ***22 of this act.***

Sec. 30. **Chapter 417 of NRS is hereby amended by adding thereto a new section to read as follows:**

1. Each year on or before October 1, the Office of Veterans' Services shall review the reports submitted pursuant to sections 12 and 24 of this act.

2. In carrying out the provisions of subsection 1, the Office of Veterans' Services shall seek input from:

(a) The Purchasing Division of the Department of Administration.

(b) The State Public Works Board.

(c) The Commission on Economic Development.

(d) Groups representing the interests of veterans of the Armed Forces of the United States.

(e) The business community.

(f) Local businesses owned by service-disabled veterans.

3. After performing the duties described in subsections 1 and 2, the Office of Veterans' Services shall make recommendations to the Legislative

Commission regarding the continuation, modification, promotion or expansion of the preferences for local businesses owned by service-disabled veterans which are described in sections 10 and 22 of this act.

4. As used in this section:

(a) "Business owned by a service-disabled veteran" has the meaning ascribed to it in section 6 of this act.

(b) "Local business" has the meaning ascribed to it in section 7 of this act.

(c) "Service-disabled veteran" has the meaning ascribed to it in section 8 of this act.

~~[Sec. 12.]~~ ***Sec. 31.*** NRS 333.336 is hereby repealed.

~~[Sec. 13.]~~ ***Sec. 32.*** 1. This section **,** ~~[and]~~ sections 1 to ~~[9,]~~ **26,** inclusive, ~~[11 and 12]~~ **and 29, 30 and 31** of this act become effective on ~~[July]~~ **October** 1, 2009.

2. Section ~~[9]~~ **27** of this act expires by limitation on April 30, 2013.

3. Section ~~[10]~~ **28** of this act becomes effective on May 1, 2013.

TEXT OF REPEALED SECTION

333.336 Inverse preference imposed on certain bidders resident outside State of Nevada.

For the purpose of awarding a contract pursuant to this chapter, if a person who submits a bid or proposal:

1. Is a resident of a state other than the State of Nevada; and

2. That other state, with respect to contracts awarded by that other state or agencies of that other state, applies to bidders or contractors who are residents of that state a preference which is not afforded to bidders or contractors who are residents of the State of Nevada,

➥ the person or entity responsible for awarding the contract pursuant to this chapter shall, insofar as is practicable, increase the person's bid or proposal by an amount that is substantially equivalent to the preference that the other state of which the person is a resident denies to bidders or contractors who are residents of the State of Nevada.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblywomen Kirkpatrick and Smith:

Amendment No. 549.

AN ACT relating to state governmental procurement; establishing bidders' preferences for local businesses and local businesses owned by service-disabled veterans with respect to state purchasing contracts; establishing bidders' preferences for local businesses owned by service-disabled veterans with respect to state public works contracts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law, with respect only to contracts for public works for which the estimated cost exceeds $250,000, provides a mechanism by which a contractor who has paid certain taxes may earn a 5-percent preference in bidding on public works. (NRS 338.1389, 338.147, 338.1693, 338.1727) **Sections 18-25** of this bill establish a limited preference in bidding on public works for local businesses owned by service-disabled veterans. This new preference in bidding on public works does not overlap with the existing preference in bidding on public works because the new preference is limited to public works for which the estimated cost is $100,000 or less.

Under existing law, the State of Nevada imposes an inverse preference against a person who submits a bid or proposal on a state purchasing contract if that person is a resident of a state that denies a preference to bidders or contractors who are residents of this State. (NRS 333.336) **Section 31** of this bill repeals that inverse preference.

In place of the former inverse preference, **sections 5-13** of this bill establish two separate new preferences in bidding on state purchasing contracts: (1) **section 10** adds a 5-percent preference for local businesses; and (2) **section 10** also adds a ~~[5]~~ 7-percent preference for local businesses owned by service-disabled veterans.

Section 30 of this bill directs the Office of Veterans' Services to perform certain duties with respect to gathering information and making recommendations to the Legislative Commission concerning the preferences for local businesses owned by service-disabled veterans.

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

Section 1. Chapter 333 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 to 13, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. ***As used in sections 5 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 6 to 9, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 6. ***"Business owned by a service-disabled veteran" means a business:***

1. Of which at least 51 percent of the ownership interest is held by one or more service-disabled veterans;

2. That is organized to engage in commercial transactions; and

3. That is managed and operated on a day-to-day basis by one or more service-disabled veterans.

➥ The term includes a business which meets the above requirements that is transferred to the spouse of a service-disabled veteran upon the death of the service-disabled veteran, as determined by the United States Department of Veterans Affairs.

Sec. 7. ***"Local business" means a business that:***

1. Employs at least one person in this State; and

2. Has employed at least one person in this State for not fewer than 2 years.

Sec. 8. ***"Service-disabled veteran" means a veteran of the Armed Forces of the United States who has a service-connected disability of at least zero percent as determined by the United States Department of Veterans Affairs.***

Sec. 9. ***"State purchasing contract" means a contract awarded pursuant to the provisions of this chapter.***

Sec. 10. ***For the purpose of awarding a formal contract solicited pursuant to subsection 2 of NRS 333.300:***

1. If a local business submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.

2. If a local business owned by a service-disabled veteran submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be ~~*[5]*~~ *7 percent lower than the bid or proposal actually submitted.***

Sec. 11. ***1. If the Purchasing Division determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 10 of this act, the business is thereafter permanently prohibited from:***

(a) Applying for or receiving the preference described in section 10 of this act; and

(b) Bidding on a state purchasing contract.

2. If the Purchasing Division determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for a preference described in section 10 of this act, the business may apply to the Chief to review the decision pursuant to chapter 233B of NRS.

Sec. 12. ***The Purchasing Division shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:***

1. The number of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

2. The total dollar amount of state purchasing contracts that were subject to the provisions of sections 5 to 13, inclusive, of this act.

3. The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a state purchasing contract.

4. The number of local businesses not described in subsection 3 that submitted a bid or proposal on a state purchasing contract.

5. The number of state purchasing contracts that were awarded to local businesses owned by service-disabled veterans.

6. The number of state purchasing contracts that were awarded to local businesses not described in subsection 5.

7. The total number of dollars worth of state purchasing contracts that were awarded to local businesses owned by service-disabled veterans.

8. The total number of dollars worth of state purchasing contracts that were awarded to local businesses not described in subsection 7.

9. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

Sec. 13. ***The Purchasing Division may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 5 to 13, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:***

1. The method by which a business may apply to receive a preference described in section 10 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for a preference described in section 10 of this act; and

3. Such other matters as the Purchasing Division deems relevant.

➥ In carrying out the provisions of this section, the Purchasing Division shall, to the extent practicable, cooperate and coordinate with the State Public Works Board so that any regulations adopted pursuant to this section and section 25 of this act are reasonably consistent.

Sec. 14. NRS 333.310 is hereby amended to read as follows:

333.310 1. An advertisement must contain a general description of the classes of commodities or services for which a bid or proposal is wanted and must state:

(a) The name and location of the department, agency, local government, district or institution for which the purchase is to be made.

(b) Where and how specifications and quotation forms may be obtained.

(c) If the advertisement is for bids, whether the Chief is authorized by the using agency to be supplied to consider a bid for an article that is an alternative to the article listed in the original request for bids if:

(1) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(2) The purchase of the alternative article results in a lower price; and

(3) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(d) A summary of the provisions of ~~[NRS 333.336.]~~ ***sections 5 to 13, inclusive, of this act.***

(e) The date and time not later than which responses must be received by the Purchasing Division.

(f) The date and time when responses will be opened.

➥ The Chief or his designated agent shall approve the copy for the advertisement.

2. Each advertisement must be published in at least one newspaper of general circulation in the State. The selection of the newspaper to carry the advertisement must be made in the manner provided by this chapter for other purchases, on the basis of the lowest price to be secured in relation to the paid circulation.

Sec. 15. NRS 333.335 is hereby amended to read as follows:

333.335 1. Each proposal must be evaluated by:

(a) The chief of the using agency, or a committee appointed by the chief of the using agency in accordance with the regulations adopted pursuant to NRS 333.135, if the proposal is for a using agency; or

(b) The Chief of the Purchasing Division, or a committee appointed by the Chief in accordance with the regulations adopted pursuant to NRS 333.135, if he is responsible for administering the proposal.

2. A committee appointed pursuant to subsection 1 must consist of not less than two members. A majority of the members of the committee must be state officers or employees. The committee may include persons who are not state officers or employees and possess expert knowledge or special expertise that the chief of the using agency or the Chief of the Purchasing Division determines is necessary to evaluate a proposal. The members of the committee are not entitled to compensation for their service on the committee, except that members of the committee who are state officers or employees are entitled to receive their salaries as state officers and employees. No member of the committee may have a financial interest in a proposal.

3. In making an award, the chief of the using agency, the Chief of the Purchasing Division or each member of the committee, if a committee is established, shall consider and assign a score for each of the following factors for determining whether the proposal is in the best interests of the State of Nevada:

(a) The experience and financial stability of the person submitting the proposal;

(b) Whether the proposal complies with the requirements of the request for proposals as prescribed in NRS 333.311;

(c) The price of the proposal, including the ~~[imposition]~~ ***granting*** of ~~[an inverse preference]~~ ***any of the preferences*** described in ~~[NRS 333.336,]~~ ***section 10 of this act,*** if applicable; and

(d) Any other factor disclosed in the request for proposals.

4. The chief of the using agency, the Chief of the Purchasing Division or the committee, if a committee is established, shall determine the relative weight of each factor set forth in subsection 3 before a request for proposals is advertised. The weight of each factor must not be disclosed before the date proposals are required to be submitted.

5. The chief of the using agency, the Chief of the Purchasing Division or the committee, if a committee is established, shall award the contract based on the best interests of the State, as determined by the total scores assigned

pursuant to subsection 3, and is not required to accept the lowest-priced proposal.

6. Except as otherwise provided in NRS 239.0115, each proposal evaluated pursuant to the provisions of this section is confidential and may not be disclosed until the contract is awarded.

Sec. 16. NRS 333.340 is hereby amended to read as follows:

333.340 1. Every contract or order for goods must be awarded to the lowest responsible bidder. To determine the lowest responsible bidder, the Chief:

(a) Shall consider, if applicable, the ~~[imposition]~~ ***granting*** of ***any of*** the ~~[inverse preference]~~ ***preferences*** described in ~~[NRS 333.336.]~~ ***section 10 of this act.***

(b) May consider:

(1) The location of the using agency to be supplied.

(2) The qualities of the articles to be supplied.

(3) The total cost of ownership of the articles to be supplied.

(4) Except as otherwise provided in subparagraph (5), the conformity of the articles to be supplied with the specifications.

(5) If the articles are an alternative to the articles listed in the original request for bids, whether the advertisement for bids included a statement that bids for an alternative article will be considered if:

(I) The specifications of the alternative article meet or exceed the specifications of the article listed in the original request for bids;

(II) The purchase of the alternative article results in a lower price; and

(III) The Chief deems the purchase of the alternative article to be in the best interests of the State of Nevada.

(6) The purposes for which the articles to be supplied are required.

(7) The dates of delivery of the articles to be supplied.

2. If a contract or an order is not awarded to the lowest bidder, the Chief shall provide the lowest bidder with a written statement which sets forth the specific reasons that the contract or order was not awarded to him.

3. As used in this section, "total cost of ownership" includes, but is not limited to:

(a) The history of maintenance or repair of the articles;

(b) The cost of routine maintenance and repair of the articles;

(c) Any warranties provided in connection with the articles;

(d) The cost of replacement parts for the articles; and

(e) The value of the articles as used articles when given in trade on a subsequent purchase.

Sec. 17. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 18 to 25, inclusive, of this act.

Sec. 18. ***As used in sections 18 to 25, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 19, 20 and 21 of this act have the meanings ascribed to them in those sections.***

Sec. 19. ***"Business owned by a service-disabled veteran" has the meaning ascribed to it in section 6 of this act.***

Sec. 20. ***"Local business" has the meaning ascribed to it in section 7 of this act.***

Sec. 21. ***"Service-disabled veteran" has the meaning ascribed to it in section 8 of this act.***

Sec. 22. ***1. For the purpose of awarding a contract for a public work of this State for which the estimated cost is $100,000 or less, as governed by NRS 338.13862, if a local business owned by a service-disabled veteran submits a bid, the bid shall be deemed to be ~~[5]~~ 7 percent lower than the bid actually submitted.***

2. The preference described in subsection 1 may not be combined with any other preference.

Sec. 23. ***1. If the State Public Works Board determines that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business is thereafter permanently prohibited from:***

(a) Applying for or receiving the preference described in section 22 of this act; and

(b) Bidding on a contract for a public work of this State.

2. If the State Public Works Board determines, as described in subsection 1, that a business has made a material misrepresentation or otherwise committed a fraudulent act in applying for the preference described in section 22 of this act, the business may apply to the Manager to review the decision pursuant to chapter 233B of NRS.

3. As used in this section, "Manager" has the meaning ascribed to it in NRS 341.015.

Sec. 24. ***The State Public Works Board shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:***

1. The number of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.

2. The total dollar amount of contracts for public works of this State that were subject to the provisions of sections 18 to 25, inclusive, of this act.

3. The number of local businesses owned by service-disabled veterans that submitted a bid or proposal on a contract for a public work of this State.

4. The number of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.

5. The total number of dollars worth of contracts for public works of this State that were awarded to local businesses owned by service-disabled veterans.

6. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

Sec. 25. ***The State Public Works Board may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of sections 18 to 25, inclusive, of this act. The regulations may include, without limitation, provisions setting forth:***

1. The method by which a business may apply to receive the preference described in section 22 of this act;

2. The documentation or other proof that a business must submit to demonstrate that it qualifies for the preference described in section 22 of this act; and

3. Such other matters as the State Public Works Board deems relevant.

➥ In carrying out the provisions of this section, the State Public Works Board shall, to the extent practicable, cooperate and coordinate with the Purchasing Division of the Department of Administration so that any regulations adopted pursuant to this section and section 13 of this act are reasonably consistent.

Sec. 26. NRS 338.1375 is hereby amended to read as follows:

338.1375 1. The State Public Works Board shall not accept a bid on a contract for a public work unless the contractor who submits the bid has qualified pursuant to NRS 338.1379 to bid on that contract.

2. The State Public Works Board shall by regulation adopt criteria for the qualification of bidders on contracts for public works of this State. The criteria adopted by the State Public Works Board pursuant to this section must be used by the State Public Works Board to determine the qualification of bidders on contracts for public works of this State.

3. The criteria adopted by the State Public Works Board pursuant to this section:

(a) Must be adopted in such a form that the determination of whether an applicant is qualified to bid on a contract for a public work does not require or allow the exercise of discretion by any one person.

(b) May include only:

(1) The financial ability of the applicant to perform a contract;

(2) The principal personnel of the applicant;

(3) Whether the applicant has breached any contracts with a public body or person in this State or any other state;

(4) Whether the applicant has been disqualified from being awarded a contract pursuant to NRS 338.017 or 338.13895 ~~[.]~~ ***or section 23 of this act;***

(5) The performance history of the applicant concerning other recent, similar contracts, if any, completed by the applicant; and

(6) The truthfulness and completeness of the application.

Sec. 27. 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 ~~[.]~~ ***and sections 18 to 25, inclusive, of this act.***

(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;

(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 NRS 338.1435; 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 NRS 338.169 to 338.1699, inclusive.

Sec. 28. 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 ~~[.]~~ ***and sections 18 to 25, inclusive, of this act.***

(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;

(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 NRS 338.1435; 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 NRS 338.169 to 338.1699, inclusive.

Sec. 29. NRS 338.13862 is hereby amended to read as follows:

338.13862 1. Before this State or a local government awards a contract for the completion of a public work in accordance with subsection 1 of NRS 338.1386, the State or the local government must:

(a) If the estimated cost of the public work is more than $25,000 but not more than $100,000, solicit bids from at least three properly licensed contractors; and

(b) If the estimated cost of the public work is $25,000 or less, solicit a bid from at least one properly licensed contractor.

2. Any bids received in response to a solicitation for bids made pursuant to this section may be rejected if the State or the local government determines that:

(a) The quality of the services, materials, equipment or labor offered does not conform to the approved plan or specifications;

(b) The bidder is not responsive or responsible; or

(c) The public interest would be served by such a rejection.

3. At least once each quarter, the State and each local government shall prepare a report detailing, for each public work over $25,000 for which a contract for its completion is awarded pursuant to paragraph (a) of subsection 1, if any:

(a) The name of the contractor to whom the contract was awarded;

(b) The amount of the contract awarded;

(c) A brief description of the public work; and

(d) The names of all contractors from whom bids were solicited.

4. A report prepared pursuant to subsection 3 is a public record and must be maintained on file at the administrative offices of the applicable public body.

5. The provisions of this section do not relieve this State from the duty to award the contract for the public work to a bidder who is:

(a) Qualified pursuant to the applicable provisions of NRS 338.1375 to 338.1382, inclusive; and

(b) The lowest responsive and responsible bidder, if bids are required to be solicited from more than one properly licensed contractor pursuant to subsection 1. ***For the purposes of this paragraph, the lowest responsive and responsible bidder must be determined in consideration of any applicable bidder's preference granted pursuant to section 22 of this act.***

Sec. 30. Chapter 417 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each year on or before October 1, the Office of Veterans' Services shall review the reports submitted pursuant to sections 12 and 24 of this act.

2. In carrying out the provisions of subsection 1, the Office of Veterans' Services shall seek input from:

(a) The Purchasing Division of the Department of Administration.

(b) The State Public Works Board.

(c) The Commission on Economic Development.

(d) Groups representing the interests of veterans of the Armed Forces of the United States.

(e) The business community.

(f) Local businesses owned by service-disabled veterans.

3. After performing the duties described in subsections 1 and 2, the Office of Veterans' Services shall make recommendations to the Legislative Commission regarding the continuation, modification, promotion or

expansion of the preferences for local businesses owned by service-disabled veterans which are described in sections 10 and 22 of this act.

4. As used in this section:

(a) "Business owned by a service-disabled veteran" has the meaning ascribed to it in section 6 of this act.

(b) "Local business" has the meaning ascribed to it in section 7 of this act.

(c) "Service-disabled veteran" has the meaning ascribed to it in section 8 of this act.

Sec. 31. NRS 333.336 is hereby repealed.

Sec. 32. 1. This section, sections 1 to 26, inclusive, and 29, 30 and 31 of this act become effective on October 1, 2009.

2. Section 27 of this act expires by limitation on April 30, 2013.

3. Section 28 of this act becomes effective on May 1, 2013.

TEXT OF REPEALED SECTION

333.336 Inverse preference imposed on certain bidders resident outside State of Nevada.

For the purpose of awarding a contract pursuant to this chapter, if a person who submits a bid or proposal:

1. Is a resident of a state other than the State of Nevada; and

2. That other state, with respect to contracts awarded by that other state or agencies of that other state, applies to bidders or contractors who are residents of that state a preference which is not afforded to bidders or contractors who are residents of the State of Nevada,

➥ the person or entity responsible for awarding the contract pursuant to this chapter shall, insofar as is practicable, increase the person's bid or proposal by an amount that is substantially equivalent to the preference that the other state of which the person is a resident denies to bidders or contractors who are residents of the State of Nevada.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 236.

Bill read second time.

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

Amendment No. 537.

AN ACT relating to water conservation; revising the provisions governing grants of money for water conservation and capital improvements to certain water systems to include a nonprofit association or nonprofit cooperative corporation that provides water service only to its members; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law **:** (1) establishes a program to provide grants of money to purveyors of water and eligible recipients to pay for the costs of capital improvements to certain publicly owned water systems made necessary by federal law and to pay for the cost of improvements to conserve water **; ~~[,]~~** and (2) defines "eligible recipient" for the purposes of the program to mean a political subdivision of **~~[the]~~ this** State. (NRS 349.981) This bill expands the definition of "eligible recipient" to include a nonprofit association or nonprofit cooperative corporation that provides water service only to its members. **This bill also provides that the prevailing wage requirements apply to any construction work which is paid for in whole or in part by a grant from the program to such a nonprofit association or nonprofit cooperative corporation that is an eligible recipient.**

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

Section 1. NRS 349.981 is hereby amended to read as follows:

349.981 1. There is hereby established a program to provide grants of money to:

(a) A purveyor of water to pay for costs of capital improvements to publicly owned community water systems and publicly owned nontransient water systems required or made necessary by the State Environmental Commission pursuant to NRS 445A.800 to 445A.955, inclusive, or made necessary by the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and the regulations adopted pursuant thereto.

(b) An eligible recipient to pay for the cost of improvements to conserve water, including, without limitation:

(1) Piping or lining of an irrigation canal;

(2) Recovery or recycling of wastewater or tailwater;

(3) Scheduling of irrigation;

(4) Measurement or metering of the use of water;

(5) Improving the efficiency of irrigation operations; and

(6) Improving the efficiency of the operation of a facility for the storage of water, including, without limitation, efficiency in diverting water to such a facility.

(c) An eligible recipient to pay the following costs associated with connecting a domestic well or well with a temporary permit to a municipal water system, if the well was in existence on or before October 1, 1999, and the well is located in an area designated by the State Engineer pursuant to NRS 534.120 as an area where the groundwater basin is being depleted:

(1) Any local or regional fee for connection to the municipal water system.

(2) The cost of any capital improvement that is required to comply with a decision or regulation of the State Engineer.

(d) An eligible recipient to pay the following costs associated with abandoning an individual sewage disposal system and connecting the

property formerly served by the abandoned individual sewage disposal system to a community sewage disposal system, if the Division of Environmental Protection requires the individual sewage disposal system to be abandoned and the property upon which the individual sewage disposal system was located to be connected to a community sewage disposal system pursuant to the provisions of NRS 445A.300 to 445A.730, inclusive, or any regulations adopted pursuant thereto:

(1) Any local or regional fee for connection to the community sewage disposal system.

(2) The cost of any capital improvement that is required to comply with a statute of this State or a decision, directive, order or regulation of the Division of Environmental Protection.

(e) An eligible recipient to pay the following costs associated with connecting a well to a municipal water system, if the quality of the water of the well fails to comply with the standards of the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and the regulations adopted pursuant thereto:

(1) Any local or regional fee for connection to the municipal water system.

(2) The cost of any capital improvement that is required for the water quality in the area where the well is located to comply with the standards of the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., and the regulations adopted pursuant thereto.

2. Except as otherwise provided in NRS 349.983, the determination of who is to receive a grant is solely within the discretion of the Board.

3. ***For any construction work paid for in whole or in part by a grant provided pursuant to this section to a nonprofit association or nonprofit cooperative corporation that is an eligible recipient, the provisions of NRS 338.013 to 338.090, inclusive, apply to:***

(a) Require the nonprofit association or nonprofit cooperative corporation to include in the contract for the construction work the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to those statutory provisions.

(b) Require the nonprofit association or nonprofit cooperative corporation to comply with those statutory provisions in the same manner as if it was a public body that had undertaken the project or had awarded the contract.

(c) Require the contractor who is awarded the contract for the construction work, or a subcontractor on the project, to comply with those statutory provisions in the same manner as if he was a contractor or subcontractor, as applicable, engaged on a public work.

4. As used in this section, "eligible recipient" means ~~[(a)]~~ ***:***

(a) A political subdivision of this State, including, without limitation, a city, county, unincorporated town, water authority, conservation district, irrigation district, water district or water conservancy district.

(b) A nonprofit association or nonprofit cooperative corporation that provides water service only to its members.

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

Assemblyman Bobzien moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 368 be taken from the Second Reading File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Conklin moved that upon return from the printer, Assembly Bills Nos. 8 and 82 be rereferred to Ways and Means.

Motion carried.

Assemblywoman Kirkpatrick moved that Assembly Bill 360 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 309.

Bill read third time.

Remarks by Assemblywoman Koivisto.

Roll call on Assembly Bill No. 309:

YEAS—41.

NAYS—None.

EXCUSED—Parnell.

Assembly Bill No. 309 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 360.

Bill read third time.

The following amendment was proposed by Assemblywoman Kirkpatrick:

Amendment No. 546.

SUMMARY—Authorizes the **temporary** creation of certain special districts. (BDR 25-733)

AN ACT relating to special districts; authorizing the **temporary** creation of certain special districts to manage certain federal funds provided to the State; requiring that certain federal funds be distributed directly to certain special districts; **requiring certain reporting in connection with such special districts;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Chapter 308 of NRS provides for the creation of various types of special districts for various purposes. This bill authorizes the creation of special districts to manage money that is: (1) paid to the State by the Federal

Government; and (2) designated for the territory covered by the district. To qualify, the number of county commissioners serving on the governing board of the special district cannot constitute a majority and the special district must be authorized to act independently of the county when managing the district. This bill also requires that, if a special district has been created, federal money be paid directly to the district and not to the county or counties within which the district lies.

Under the provisions of this bill, the governing body of any special district created pursuant thereto must, on or before January 1, 2011, submit a one-time report to the Director of the Legislative Counsel Bureau for transmittal to the 76th Session of the Nevada Legislature.

The provisions of this bill expire by limitation on June 30, 2013.

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

Section 1. Chapter 308 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A special district may be formed subject to the provisions of this chapter:

(a) To manage any money that is:

(1) Paid to the State of Nevada or to a county by the Federal Government; and

(2) Designated for the territory covered by the special district; and

(b) With a governing body:

(1) Of which not more than half of the members are also members of the governing body or bodies of the county or counties within which lies the territory covered by the special district; and

(2) Which is authorized to act independently of the governing body or bodies of the county or counties within which lies the territory covered by the special district.

2. If a special district is formed pursuant to the provisions of this section to manage money that is:

(a) Paid to the State of Nevada or to a county by the Federal Government pursuant to a specified bill or measure of the Federal Government; and

(b) Designated for the territory covered by the special district,

➥ any such money must be distributed directly to the special district for expenditure.

Sec. 2. NRS 354.140 is hereby amended to read as follows:

354.140 1. ~~[The]~~ ***Except as otherwise provided in subsection 2, the*** money paid to the State of Nevada by the Secretary of the Treasury under the provisions of 16 U.S.C. § 500, providing for the payment to states and territories of a fixed percentage of the money received by the Government of the United States from the forest reserves established therein, must be

distributed respectively to the county or counties in which the forest reserves are situated **.** ~~[, to]~~

2. If a special district has been formed pursuant to the provisions of section 1 of this act to manage money paid to the State of Nevada by the Secretary of the Treasury under the provisions of 16 U.S.C. § 500 from forest reserves established within the territory covered by the special district, any such money must be distributed directly to the special district.

3. Money distributed pursuant to subsections 1 and 2 must be expended for the benefit of the public schools and the public roads of the county or counties in equal proportion for each object. The proportion for schools must be paid into the county school district fund. If there is a county road fund, the proportion for roads must be paid into the county road fund. If there is no county road fund, the proportion for roads must be paid into the county general fund for public road purposes.

~~[2.]~~ ***4.*** When any forest reserve is in more than one state or county, the distributive share to each must be proportional to its area therein, following as near as may be the figures submitted to the State of Nevada respecting net forest area and county acreage therein by the Forest Service, United States Department of Agriculture.

~~[3.]~~ ***5.*** The agency which is responsible for completing any audit required for the continuation of the payments must be reimbursed for the cost of the audit from the funds to which the payments were distributed proportionately according to the percentage of the payment which was distributed to each fund.

Sec. 3. **1. On or before January 1, 2011, the governing body of any special district formed pursuant to the provisions of section 1 of this act shall submit a report to the Director of the Legislative Counsel Bureau for transmittal to the 76th Session of the Nevada Legislature.**

2. The report required to be submitted in accordance with subsection 1 must include, without limitation:

(a) A description of the boundaries of the special district.

(b) The form and composition of the governance of the special district.

(c) The total number of dollars received by the special district, directly or indirectly, from the Federal Government.

(d) The purposes for which the money described in paragraph (c) was spent and will be spent.

(e) A description of the activities engaged in by the special district.

(f) Any other information that is requested by the Director of the Legislative Counsel Bureau which the Director determines would be helpful to the Legislature in evaluating the efficacy, efficiency and usefulness of the special district.

~~[Sec. 3.]~~ ***Sec. 4.*** This act becomes effective on July 1, 2009 ~~[.]~~ **, and expires by limitation on June 30, 2013.**

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

GUESTS EXTENDED PRIVILEGE OF ASSEMBLY FLOOR

On request of Assemblyman Cobb, the privilege of the floor of the Assembly Chamber for this day was extended to Kyle Auld and Jake Ziolkowski.

On request of Assemblyman Gustavson, the privilege of the floor of the Assembly Chamber for this day was extended to the following students from Whitehead Elementary School: Kimberly Arnold, Austin Burkhart, Del Daylami, Andrea Delisle, Victoria Dickson, Sarah Ebling, Matthew Feierabend, Dominick Franco, Jordan Fritz, Jennifer Garcia, Celie Harrington, Hunter Henderson-Espinoza, Ashley Hutchinson, Osvaldo Jimenez-Estupinan, Conner Laslo, Hallie Lerma, Hezeny Mariscal, Conner McCaul, Natalie Orsi, Sara Trejo Lopez, Tiana Walker, Dylan Warkentin, Morgan Weatherhead, Cody Wheatley, Arial Wright, Maci Abrott, Yesenia Aguilar Vasquez, Thomas Behney, Madison Claypool, Jasmine Comprix, Danielle Donatelli, Ashlee Durante, Denilson Espana, Blake Fitzmier, Jennifer Gonzalez, Destyny Grooms, Keely Grow, Nicholas Hawkins, Annabel Hernandez, Toni Kane, Stefani Orozco, Anthony Peabody, Logan Pine, Alyssa Pokorski, Omar Rodriguez Hernandez, Mailynn Santacruz-Anderson, Bianca Serrano, Harvey Wood, Matthew Worden, Grace Yancey, Izabella Baumann, Kate Borsz, Matthew Butler, Thomas Dawley, Katherine Delgado, Natalie Gonzalez, Nicholas Gopen, Darby Grow, Carlos Jimenez, Anna King, Braun King, Samantha Linnenbrink, Arianna Matherly, Nicholas Milan, Jake Nance, Jacob Ross, Jordan Senda, Sarah Sepulveda, Bobby Jo Silvertooth, Ashlee Smith, Cory Starks, Michelle Trejo Lopez, Lincoln Turner and Kayla White; teachers Pam Larson and Karen King.

On request of Assemblyman Ohrenschall, the privilege of the floor of the Assembly Chamber for this day was extended to Michael A. Nasiak.

Assemblyman Oceguera moved that the Assembly adjourn until Tuesday, April 21, 2009, at 10:30 a.m.

Motion carried.

Assembly adjourned at 7:45 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly