THE ONE HUNDRED AND EIGHTH DAY

CARSON CITY (Wednesday), May 20, 2009

Assembly called to order at 10:50 a.m.

Madam Speaker presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Patrick Propster.

Philipians 4:4–7:

Rejoice in the Lord always. Again, I will say, rejoice! Let Your gentleness be known to all men. The Lord is at hand. Be anxious for nothing, but in everything by prayer and supplication, with thanksgiving, let your requests be made known to God; and the peace of God, which surpasses all understanding, will guard your hearts and minds through Christ Jesus.

Let us pray:

Lord, we know that there are days of stress and times of anxiousness, when futures are uncertain. It is in times such as these that we call upon Your mighty certainty and Your faithful constancy, in that we will trust. Lord God Almighty, we seek this day Your hand of divine guidance and Your wisdom beyond compare. This we ask in Thy Holy Name, the One and Only Jehovah Jireh, the Lord our Provider.

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 Senate Bills Nos. 89, 152, 176, 184, 197, 227, 230, 269, 310, 338, 355, 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 Government Affairs, to which was referred Senate Bill No. 408, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MARILYN K. KIRKPATRICK, *Chair*

Madam Speaker:

Your Committee on Government Affairs, to which was referred Senate Bill No. 190, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

DAVID P. BOBZIEN, VICE *Chair*

Madam Speaker:

Your Committee on Judiciary, to which were referred Senate Bills Nos. 55, 350, 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 Natural Resources, Agriculture, and Mining, to which was referred Senate Bill No. 411, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JERRY D. CLABORN, *Chair*

Madam Speaker:

Your Committee on Transportation, to which was referred Senate Bill No. 332, 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 rereferred Assembly Bill No. 355, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass, as amended.

MORSE ARBERRY JR., *Chair*

MESSAGES FROM THE SENATE

SENATE CHAMBER, Carson City, May 19, 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. 179, 199, 208, 267, 326, 402, 414, 493.

Also, I have the honor to inform your honorable body that the Senate on this day passed, as amended, Senate Bills Nos. 188, 299, 370, 395.

Also, I have the honor to inform your honorable body that the Senate amended, and on this day passed, as amended, Assembly Bill No. 26, Amendment No. 703; Assembly Bill No. 56, Amendment No. 702; Assembly Bill No. 87, Amendment No. 661; Assembly Bill No. 89, Amendment No. 659; Assembly Bill No. 129, Amendment No. 604; Assembly Bill No. 220, Amendment No. 653; Assembly Bill No. 263, Amendment No. 662; Assembly Bill No. 325, Amendment No. 692; Assembly Bill No. 350, Amendment No. 737; Assembly Bill No. 360, Amendment No. 708; Assembly Bill No. 463, Amendment No. 758; Assembly Bill No. 487, Amendment No. 738; Assembly Bill No. 491, Amendment No. 727; Assembly Bill No. 500, Amendment No. 752, and respectfully requests your honorable body to concur in said amendments.

Also, I have the honor to inform your honorable body that the Senate on this day concurred in the Assembly Amendment No. 645 to Senate Bill No. 125; Assembly Amendment No. 674 to Senate Bill No. 283.

SHERRY L. RODRIGUEZ
Assistant Secretary of 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 10:58 a.m.

ASSEMBLY IN SESSION

At 11:01 a.m.
Madam Speaker presiding.
Quorum present.

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 561—AN ACT relating to reorganization of State Government; eliminating the Consumer Affairs Division of the Department of Business and Industry; eliminating the position of Commissioner of Consumer Affairs; transferring certain duties and powers of the Division and the Commissioner; and providing other matters properly relating thereto.

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

Motion carried.

By the Committee on Ways and Means:

Assembly Bill No. 562—AN ACT relating to state financial administration; making appropriations from the State General Fund and the State Highway Fund for the support of the civil government of the State of Nevada for the fiscal years beginning July 1, 2009, and ending June 30, 2010, and beginning July 1, 2010, and ending June 30, 2011; providing for the use of the money so appropriated; revising the provisions governing the line of credit from the Local Government Pooled Investment Fund; making various other changes relating to the financial administration of the State; and providing other matters properly relating thereto.

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

Motion carried.

Senate Bill No. 188.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

Senate Bill No. 299.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Bill No. 370.

Assemblyman Oceguera moved that the bill be referred to the Committee on Elections, Procedures, Ethics, and Constitutional Amendments.

Motion carried.

Senate Bill No. 395.

Assemblyman Oceguera moved that the bill be referred to the Committee on Commerce and Labor.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF WAIVER

A Waiver requested by Senator Horsford and Assemblywoman Buckley.

For: BDR 32-1319 (Senate Bill No. 429)

To Waive:

Subsection 1 of Joint Standing Rule No. 14 (2 BDRs from Assemblymen and 4 BDRs from Senators requested by 8th day).

Subsection 1 of Joint Standing Rule No. 14.2 (dates for introduction of BDRs requested by individual legislators and committees).

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).

Has been granted effective: Tuesday, May 19, 2009.

STEVEN A. HORSFORD	BARBARA BUCKLEY
Senate Majority Leader	*Speaker of the Assembly*

Assemblyman Oceguera announced that pursuant to Assembly Standing Rule 91, he hereby gave notice that on the next legislative day he would move to amend Rule 68 of the Assembly Standing Rules.

SECOND READING AND AMENDMENT

Senate Bill No. 55.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 588.

AN ACT relating to business entities; providing that business entities may cancel filings made with the Secretary of State under certain circumstances; revising the provisions relating to the resignation of a registered agent; revising the provisions relating to the filing of certain lists by business entities; clarifying the provisions relating to the applicability of certain provisions concerning taxation of a business; **revising provisions relating to the payment of dividends or distributions of stock to a judgment creditor; revising provisions relating to domestication of an undomesticated organization;** making various other changes pertaining to business entities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1, 3, 7, 8, 11, 14, 16, 22, 29, 31, 39, 50 and 53 of this bill authorize certain business entities that have made a filing with the Secretary of State to cancel the filing if: (1) the Secretary of State has not processed the filing and placed the filing into the public record; and (2) the business entity

pays the required fee. (NRS 78.0295, 80.007, 81.006, 82.534, 84.009, 86.568, 87.547, 87A.275, 88.339, 88A.930)

Section 2.5 of this bill amends existing law, which requires a registered agent who wishes to resign with respect to a represented entity to file with the Secretary of State a statement of resignation which includes the name and address of the person to which the agent will send the notice of resignation, to require such registered agent to file with the Secretary of State an affidavit stating that written notice was provided to each represented entity and to keep a copy of such notice on file for 1 year from the date of filing the statement of resignation and to make any such copy available to the Secretary of State upon request. (NRS 77.370)

Sections 4, 9, 13, 18, 20, 24, 26, 32, 34, 40, 42, 47 and 48 of this bill amend existing law, which requires the Secretary of State to mail certain notices and blank forms to certain business entities, to authorize the Secretary of State to provide instead, by any means, notice to those business entities of the applicable statutory obligations to file certain lists. (NRS 78.150, 80.110, 82.523, 86.263, 86.5461, 87.510, 87.541, 87A.290, 87A.560, 88.395, 88.591, 88A.600, 88A.732)

Sections 5, 10, 12, 17, 21, 25, 27, 30, 35, 37, 38, 43, 45, 46, 49, 51 and 52 of this bill provide that a business entity is required to provide the Secretary of State certain information concerning its owners of record only upon the request of the Secretary of State. (NRS 78.152, 80.113, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251)

Sections 23 and 28 of this bill make technical corrections: (1) to an incorrect reference concerning a registered limited-liability partnership; and (2) to include a reference to the requirement to provide information concerning a registered agent when a foreign registered limited-liability partnership is seeking reinstatement. (NRS 87.480, 87.5435)

Section 6.5 of this bill amends existing law to: (1) define the rights of a judgment creditor who, by court order, receives the distribution or dividend of shares of stock from a stockholder who is the judgment debtor; (2) expand the applicability of the court order to corporations with more than 1 but fewer than 100 shareholders; and (3) provide that the court order does not supercede a private agreement between the stockholder and the creditor if the agreement does not conflict with the corporation's articles of incorporation, bylaws or a shareholder agreement to which the stockholder is a party. (NRS 78.746)

Sections 36 and 44 of this bill authorize a partnership to register as a limited-liability limited partnership by filing a combined certificate with the Secretary of State and paying the appropriate fee. (NRS 87A.630, 88.606)

Section 53.5 of this bill amends existing law to provide that an undomesticated organization seeking domestication in this State must provide a certified copy of the charter document and a certificate of good standing, or the equivalent, from the jurisdiction where the

organization was chartered immediately preceding the application for domestication. Additionally, section 53.5 addresses the liability of a shareholder or other type of owner of the organization before and after domestication of the organization in this State. Finally, section 53.5 expands the availability of domestication in this State from only organizations governed by the laws of a foreign country or jurisdiction outside the United States to include organizations governed by the laws of any state other than this State, including those of other states within the United States. (NRS 92A.270)

Section 54 of this bill amends the existing definition of "business" to include any entity organized pursuant to title 7 of NRS, including an entity required to file with the Secretary of State, whether or not the entity performs a service or engages in a business for profit, other than a nonprofit corporation or a corporation sole, which clarifies that such a business is required to: (1) obtain a state business license; and (2) register with the Department of Taxation if the business purchases tangible personal property for storage, use or other consumption in this State. (NRS 360.765, 372.220)

Section 55 of this bill provides that if an applicant for a state business license is a business organized pursuant to title 7 of NRS and on file with the Secretary of State, the applicant must include in its application the exact name on file with the Secretary of State. (NRS 360.780) **Section 55** also clarifies that for the purposes of the statutory provisions requiring a person to obtain a state business license, a person is deemed to be conducting a business in this State if a business for which the person is responsible has a registered agent in this State.

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

Section 1. Chapter 77 of NRS is hereby amended by adding thereto a new section to read as follows:

If an entity has made a filing with the Secretary of State pursuant to this chapter and the Secretary of State has not processed the filing and placed the filing into the public record, the entity may cancel the filing by:

1. Filing a statement of cancellation with the Secretary of State; and

2. Paying a fee of $50.

Sec. 1.5. NRS 77.300 is hereby amended to read as follows:

77.300 Whenever a provision of this chapter ~~[other than paragraph (d) of subsection 1 of NRS 77.370]~~ requires that a filing state an address, the filing must state:

1. An actual street address or rural route box number in this State; and

2. A mailing address in this State, if different from the address under subsection 1.

Sec. 2. (Deleted by amendment.)

Sec. 2.5. NRS 77.370 is hereby amended to read as follows:

77.370 1. A registered agent may resign at any time with respect to a represented entity by filing with the Secretary of State a statement of resignation signed by or on behalf of the agent which states:

(a) The name of the entity;

(b) The name of the agent; ***and***

(c) That the agent resigns from serving as agent for service of process for the entity **.** ~~[, and~~

~~(d) The name and address of the person to which the agent will send the notice required by subsection 3.]~~

2. A statement of resignation takes effect on the earlier of the 31st day after the day on which it is filed or the appointment of a new registered agent for the represented entity.

3. The registered agent shall promptly furnish the represented entity with notice in a record of the date on which a statement of resignation was filed ~~[.]~~ ***and shall file with the Secretary of State an affidavit stating that written notice of the resignation has been provided to each represented entity. The affidavit must include the name of each represented entity that was provided notice, but is not required to include the contact information of the represented entity or the names of the interest holders of the represented entity. The registered agent shall keep a copy of each notice provided to a represented entity on file for 1 year after the date of filing the statement of resignation and shall make any such copy available to the Secretary of State upon request.***

4. When a statement of resignation takes effect, the registered agent ceases to have responsibility for any matter tendered to it as agent for the represented entity. A resignation under this section does not affect any contractual rights the entity may have against the agent or that the agent may have against the entity.

5. A registered agent may resign with respect to a represented entity whether or not the entity is in good standing.

Sec. 3. NRS 78.0295 is hereby amended to read as follows:

78.0295 1. A corporation may correct a record filed in the Office of the Secretary of State with respect to the corporation if the record contains an inaccurate description of a corporate action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the corporation must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the corporation or, if no stock has been issued by the corporation, by the incorporator or a director of the corporation.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the corporation may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying the required fee pursuant to subsection 7 of NRS 78.785.

Sec. 4. NRS 78.150 is hereby amended to read as follows:

78.150 1. A corporation organized pursuant to the laws of this State shall, on or before the last day of the first month after the filing of its articles of incorporation with the Secretary of State, file with the Secretary of State a list, on a form furnished by him, containing:

(a) The name of the corporation;

(b) The file number of the corporation, if known;

(c) The names and titles of the president, secretary and treasurer, or the equivalent thereof, and of all the directors of the corporation;

(d) The address, either residence or business, of each officer and director listed, following the name of the officer or director;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of an officer of the corporation certifying that the list is true, complete and accurate.

2. The corporation shall annually thereafter, on or before the last day of the month in which the anniversary date of incorporation occurs in each year, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsection 1 or 2 must be accompanied by:

(a) A declaration under penalty of perjury that the corporation:

(1) Has complied with the provisions of NRS 360.780; and

(2) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this paragraph and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

4. Upon filing the list required by:

(a) Subsection 1, the corporation shall pay to the Secretary of State a fee of $125.

(b) Subsection 2, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

$75,000 or less	$125
Over $75,000 and not over $200,000	175
Over $200,000 and not over $500,000	275
Over $500,000 and not over $1,000,000	375
Over $1,000,000:	
For the first $1,000,000	375
For each additional $500,000 or fraction thereof	275

➥ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is $11,100.

5. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 2, ~~[cause to be mailed]~~ ***provide*** to each corporation which is required to comply with the provisions of NRS 78.150 to 78.185, inclusive, and which has not become delinquent, a notice of the fee due pursuant to subsection 4 and a reminder to file the annual list required by subsection 2. Failure of any corporation to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective in any respect or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and must be accompanied by the appropriate fee as provided in subsection 4 for filing. A payment submitted pursuant to this subsection does not satisfy the requirements of subsection 2 for the year to which the due date is applicable.

Sec. 5. NRS 78.152 is hereby amended to read as follows:

78.152 1. In addition to any records required to be kept at the registered office pursuant to NRS 78.105, a corporation that is not a publicly traded corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the corporate charter.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the corporate charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 6. (Deleted by amendment.)

Sec. 6.5. **NRS 78.746 is hereby amended to read as follows:**

78.746 1. On application to a court of competent jurisdiction by a judgment creditor of a stockholder, the court may charge the stockholder's stock with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the stockholder's stock.

2. This section:

(a) Applies only to a corporation that:

(1) Has more than 1 but fewer than ~~[75]~~ ***100*** stockholders of record at any time.

(2) Is not a subsidiary of a publicly traded corporation, either in whole or in part.

(3) Is not a professional corporation as defined in NRS 89.020.

(b) Does not apply to any liability of a stockholder that exists as the result of an action filed before July 1, 2007.

(c) Provides the exclusive remedy by which a judgment creditor of a stockholder or an assignee of a stockholder may satisfy a judgment out of the stockholder's stock of the corporation.

(d) Does not deprive any stockholder of the benefit of any exemption applicable to the stockholder's stock.

(e) Does not supersede any private agreement between a stockholder and a creditor ~~[.]~~ ***if the private agreement does not conflict with the corporation's articles of incorporation, bylaws or any shareholder agreement to which the stockholder is a party.***

3. As used in this section, "rights of an assignee" means the rights to receive the share of the distributions or dividends paid by the corporation

to which the judgment debtor would otherwise be entitled. The term does not include the rights to participate in the management of the business or affairs of the corporation or to become a director of the corporation.

Sec. 7. Chapter 78A of NRS is hereby amended by adding thereto a new section to read as follows:

If a close corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the close corporation may cancel the filing by:

1. Filing a statement of cancellation with the Secretary of State; and

2. Paying the required fee pursuant to subsection 7 of NRS 78.785.

Sec. 8. NRS 80.007 is hereby amended to read as follows:

80.007 1. A foreign corporation may correct a record filed in the Office of the Secretary of State if the record contains an incorrect statement or was defectively signed, attested, sealed or verified.

2. To correct a record, the corporation must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the corporation or, if no stock has been issued by the corporation, by the incorporator or a director of the corporation.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a foreign corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the foreign corporation may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying the required fee pursuant to subsection 7 of NRS 78.785.

Sec. 9. NRS 80.110 is hereby amended to read as follows:

80.110 1. Each foreign corporation doing business in this State shall, on or before the last day of the first month after the filing of its certificate of corporate existence with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The names and addresses, either residence or business, of its president, secretary and treasurer, or the equivalent thereof, and all of its directors;

(b) The information required pursuant to NRS 77.310; and

(c) The signature of an officer of the corporation.

2. Each list filed pursuant to subsection 1 must be accompanied by:

(a) A declaration under penalty of perjury that the foreign corporation has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

(b) A statement as to whether the foreign corporation is a publicly traded company. If the corporation is a publicly traded company, the corporation must list its Central Index Key. The Secretary of State shall include on his Internet website the Central Index Key of a corporation provided pursuant to this subsection and instructions describing the manner in which a member of the public may obtain information concerning the corporation from the Securities and Exchange Commission.

3. Upon filing:

(a) The initial list required by subsection 1, the corporation shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the corporation shall pay to the Secretary of State, if the amount represented by the total number of shares provided for in the articles is:

$75,000 or less	$125
Over $75,000 and not over $200,000	175
Over $200,000 and not over $500,000	275
Over $500,000 and not over $1,000,000	375
Over $1,000,000:	
For the first $1,000,000	375
For each additional $500,000 or fraction thereof	275

➥ The maximum fee which may be charged pursuant to paragraph (b) for filing the annual list is $11,100.

4. If a director or officer of a corporation resigns and the resignation is not reflected on the annual or amended list of directors and officers, the corporation or the resigning director or officer shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each corporation which is required to comply with the provisions of NRS 80.110 to 80.175, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list pursuant to subsection 1.*** Failure of any corporation to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 80.110 to 80.175, inclusive.

6. An annual list for a corporation not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 10. NRS 80.113 is hereby amended to read as follows:

80.113 1. A foreign corporation that is not a publicly traded corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign corporation to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign corporation to transact business that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign corporation to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 11. NRS 81.006 is hereby amended to read as follows:

81.006 1. A nonprofit cooperative corporation, a cooperative association, a charitable organization or any other entity formed under the provisions of this chapter may correct a record filed with the Secretary of State with respect to the entity if the record contains an inaccurate description of an action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the entity must:

(a) Prepare a certificate of correction which:

(1) States the name of the entity;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the entity or, if the certificate is filed before the first meeting of the board of directors, by an incorporator or director.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $25 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a nonprofit cooperative corporation, a cooperative association, a charitable organization or any other entity formed under the provisions of this chapter has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the nonprofit cooperative corporation, cooperative association, charitable organization or other entity may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 12. NRS 82.183 is hereby amended to read as follows:

82.183 1. A corporation shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** corporation shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a corporation fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the corporation to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a corporation to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The corporation complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the corporation to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 13. NRS 82.523 is hereby amended to read as follows:

82.523 1. Each foreign nonprofit corporation doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign nonprofit corporation with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign nonprofit corporation;

(b) The file number of the foreign nonprofit corporation, if known;

(c) The names and titles of the president, the secretary and the treasurer, or the equivalent thereof, and all the directors of the foreign nonprofit corporation;

(d) The address, either residence or business, of the president, secretary and treasurer, or the equivalent thereof, and each director of the foreign nonprofit corporation;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of an officer of the foreign nonprofit corporation certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign nonprofit corporation:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing the initial list and each annual list pursuant to this section, the foreign nonprofit corporation must pay to the Secretary of State a fee of $25.

4. The Secretary of State shall, 60 days before the last day for filing each annual list, ~~[cause to be mailed]~~ ***provide*** to each foreign nonprofit corporation which is required to comply with the provisions of NRS 82.523 to 82.5239, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign nonprofit corporation to receive ~~[the forms]~~ ***a notice***

does not excuse it from the penalty imposed by the provisions of NRS 82.523 to 82.5239, inclusive.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list for a foreign nonprofit corporation not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 14. NRS 82.534 is hereby amended to read as follows:

82.534 1. A corporation may correct a record filed in the Office of the Secretary of State with respect to the corporation if the record contains an inaccurate description of a corporate action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the corporation must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an officer of the corporation or, if the certificate is filed before the first meeting of the board of directors, by an incorporator or director.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $25 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a corporation has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the corporation may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 15. (Deleted by amendment.)

Sec. 16. NRS 84.009 is hereby amended to read as follows:

84.009 1. A corporation sole may correct a record filed with the Office of the Secretary of State with respect to the corporation sole if the record contains an inaccurate description of an action of the corporation sole or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the corporation sole must:

(a) Prepare a certificate of correction which:

(1) States the name of the corporation sole;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by an archbishop, bishop, president, trustee in trust, president of stake, president of congregation, overseer, presiding elder, district superintendent or other presiding officer or clergyman of a church, religious society or denomination, who has been chosen, elected or appointed in conformity with the constitution, canons, rites, regulations or discipline of the church, religious society or denomination, and in whom is vested the legal title to the property held for the purpose, use or benefit of the church or religious society or denomination.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $25 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a corporation sole has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the corporation sole may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 17. NRS 86.246 is hereby amended to read as follows:

86.246 1. In addition to any records required to be kept pursuant to NRS 86.241, a limited-liability company shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member and manager; or

(b) A statement indicating where such a list is maintained.

2. ~~[A]~~ ***Upon the request of the Secretary of State, the*** limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action

necessary, including, without limitation, the suspension or revocation of the charter of the limited-liability company.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 18. NRS 86.263 is hereby amended to read as follows:

86.263 1. A limited-liability company shall, on or before the last day of the first month after the filing of its articles of organization with the Secretary of State, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited-liability company;

(b) The file number of the limited-liability company, if known;

(c) The names and titles of all of its managers or, if there is no manager, all of its managing members;

(d) The address, either residence or business, of each manager or managing member listed, following the name of the manager or managing member;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a manager or managing member of the limited-liability company certifying that the list is true, complete and accurate.

2. The limited-liability company shall thereafter, on or before the last day of the month in which the anniversary date of its organization occurs, file with the Secretary of State, on a form furnished by him, an annual list containing all of the information required in subsection 1.

3. Each list required by subsections 1 and 2 must be accompanied by a declaration under penalty of perjury that the limited-liability company:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

4. Upon filing:

(a) The initial list required by subsection 1, the limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 2, the limited-liability company shall pay to the Secretary of State a fee of $125.

5. If a manager or managing member of a limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

6. The Secretary of State shall, 90 days before the last day for filing each list required by subsection 2, ~~[cause to be mailed]~~ ***provide*** to each limited-liability company which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due under subsection 4 and a reminder to file ~~[a]~~ ***the*** list required by subsection 2. Failure of any company to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by law.

7. If the list to be filed pursuant to the provisions of subsection 1 or 2 is defective or the fee required by subsection 4 is not paid, the Secretary of State may return the list for correction or payment.

8. An annual list for a limited-liability company not in default received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 19. (Deleted by amendment.)

Sec. 20. NRS 86.5461 is hereby amended to read as follows:

86.5461 1. Each foreign limited-liability company doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited-liability company with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list on a form furnished by him that contains:

(a) The name of the foreign limited-liability company;

(b) The file number of the foreign limited-liability company, if known;

(c) The names and titles of all its managers or, if there is no manager, all its managing members;

(d) The address, either residence or business, of each manager or managing member listed pursuant to paragraph (c);

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a manager or managing member of the foreign limited-liability company certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited-liability company:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited-liability company shall pay to the Secretary of State a fee of $125.

4. If a manager or managing member of a foreign limited-liability company resigns and the resignation is not reflected on the annual or amended list of managers and managing members, the foreign limited-liability company or the resigning manager or managing member shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by this section, ~~[cause to be mailed]~~ ***provide*** to each foreign limited-liability company which is required to comply with the provisions of NRS 86.5461 to 86.5468, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign limited-liability company to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 86.5461 to 86.5468, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited-liability company not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of this section for the year to which the due date is applicable.

Sec. 21. NRS 86.54615 is hereby amended to read as follows:

86.54615 1. A foreign limited-liability company shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member and manager; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any

action necessary, including, without limitation, the suspension or revocation of the registration of the foreign limited-liability company.

5. The Secretary of State shall not reinstate or revive a registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 22. NRS 86.568 is hereby amended to read as follows:

86.568 1. A limited-liability company may correct a record filed in the Office of the Secretary of State with respect to the limited-liability company if the record contains an inaccurate description of a company action or was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the limited-liability company must:

(a) Prepare a certificate of correction that:

(1) States the name of the limited-liability company;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a manager of the company or, if management is not vested in a manager, by a member of the company.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a limited-liability company has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the limited-liability company may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 23. NRS 87.480 is hereby amended to read as follows:

87.480 A registered limited-liability partnership must have a registered agent who resides or is located in this State. A registered agent must have a street address for the service of process that is the principal office of the registered limited-liability ~~[company]~~ ***partnership*** in this State, and may have a separate mailing address that is different from his street address.

Sec. 24. NRS 87.510 is hereby amended to read as follows:

87.510 1. A registered limited-liability partnership shall, on or before the last day of the first month after the filing of its certificate of registration

with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of registration with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the registered limited-liability partnership;

(b) The file number of the registered limited-liability partnership, if known;

(c) The names of all of its managing partners;

(d) The address, either residence or business, of each managing partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a managing partner of the registered limited-liability partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the registered limited-liability partnership has complied with the provisions of NRS 360.780, an acknowledgment that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

3. If a managing partner of a registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the registered limited-liability partnership or the resigning managing partner shall pay to the Secretary of State a fee of $75 to file the resignation.

4. The Secretary of State shall, at least 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to the registered limited-liability partnership a notice of the fee due pursuant to subsection 2 and a reminder to file the annual list required by subsection 1. The failure of any registered limited-liability partnership to receive a notice ~~[or form]~~ does not excuse it from complying with the provisions of this section.

5. If the list to be filed pursuant to the provisions of subsection 1 is defective, or the fee required by subsection 2 is not paid, the Secretary of State may return the list for correction or payment.

6. An annual list that is filed by a registered limited-liability partnership which is not in default more than 90 days before it is due shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 25. NRS 87.515 is hereby amended to read as follows:

87.515 1. A registered limited-liability partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of its managing partners; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** registered limited-liability partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 26. NRS 87.541 is hereby amended to read as follows:

87.541 1. Each foreign registered limited-liability partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign registered limited-liability partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign registered limited-liability partnership;

(b) The file number of the foreign registered limited-liability partnership, if known;

(c) The names of all its managing partners;

(d) The address, either residence or business, of each managing partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a managing partner of the foreign registered limited-liability partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign registered limited-liability partnership:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign registered limited-liability partnership shall pay to the Secretary of State a fee of $125.

4. If a managing partner of a foreign registered limited-liability partnership resigns and the resignation is not reflected on the annual or amended list of managing partners, the foreign registered limited-liability partnership or the managing partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each foreign registered limited-liability partnership which is required to comply with the provisions of NRS 87.541 to 87.544, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign registered limited-liability partnership to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 87.541 to 87.544, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign registered limited-liability partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 27. NRS 87.5413 is hereby amended to read as follows:

87.5413 1. A foreign registered limited-liability partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of its managing partners; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign registered limited-liability partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign registered limited-liability partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign registered limited-liability partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign registered limited-liability partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign registered limited-liability partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign registered limited-liability partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 28. NRS 87.5435 is hereby amended to read as follows:

87.5435 1. Except as otherwise provided in subsections 3 and 4 and NRS 87.5413, the Secretary of State shall reinstate a foreign registered limited-liability partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign registered limited-liability partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State ~~[the]~~ ***:***

(1) The list required by NRS 87.541; and

(2) The information required pursuant to NRS 77.310; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 87.541 and 87.5425 for each year or portion thereof that its right to transact business was forfeited; and

(2) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign registered limited-liability partnership, he shall issue to the foreign registered limited-liability partnership a certificate of reinstatement if the foreign registered limited-liability partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 87.550.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign registered limited-liability partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right to transact business must not be reinstated.

5. Except as otherwise provided in NRS 87.544, a reinstatement pursuant to this section relates back to the date on which the foreign registered limited-liability partnership forfeited its right to transact business under the provisions of this chapter and reinstates the foreign registered limited-liability partnership's right to transact business as if such right had at all times remained in full force and effect.

Sec. 29. NRS 87.547 is hereby amended to read as follows:

87.547 1. A registered limited-liability partnership may correct a record filed in the Office of the Secretary of State with respect to the registered limited-liability partnership if the record contains an inaccurate description of a partnership action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the registered limited-liability partnership must:

(a) Prepare a certificate of correction that:

(1) States the name of the registered limited-liability partnership;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a managing partner of the registered limited-liability partnership.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a registered limited-liability partnership has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the registered limited-liability partnership may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 30. NRS 87A.200 is hereby amended to read as follows:

87A.200 1. A limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 31. NRS 87A.275 is hereby amended to read as follows:

87A.275 1. A limited partnership or foreign limited partnership may correct a record filed in the Office of the Secretary of State with respect to the limited partnership or foreign limited partnership if the record contains false or erroneous information or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the limited partnership or foreign limited partnership must:

(a) Prepare a certificate of correction that:

(1) States the name of the limited partnership or foreign limited partnership;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the false or erroneous information or the defect;

(4) Sets forth the false or erroneous information or the defective portion of the record in an accurate or corrected form; and

(5) Is signed by a general partner of the limited partnership or foreign limited partnership.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction must not state a delayed effective date and is effective on the effective date of the record it corrects, except that the certificate is effective when filed:

(a) For the purposes of subsections 3 and 4 of NRS 87A.150; and

(b) As to persons relying on the uncorrected record and adversely affected by the correction.

4. If a limited partnership or foreign limited partnership has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the limited partnership or foreign limited partnership may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 32. NRS 87A.290 is hereby amended to read as follows:

87A.290 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;

(b) The file number of the limited partnership, if known;

(c) The names of all of its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list ~~[.]~~ ***required pursuant to subsection 1.*** Failure of any limited partnership to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by NRS 87A.300.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 87A.240 and may not be substituted for filings submitted pursuant to NRS 87A.240.

Sec. 33. (Deleted by amendment.)

Sec. 34. NRS 87A.560 is hereby amended to read as follows:

87A.560 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each foreign limited partnership, which is required to comply with the provisions of NRS 87A.560 to 87A.600, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign limited partnership to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 87A.560 to 87A.600, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 35. NRS 87A.580 is hereby amended to read as follows:

87A.580 1. A foreign limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate authorizing the foreign limited partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive a certificate authorizing a foreign limited partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate authorizing the foreign limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 36. NRS 87A.630 is hereby amended to read as follows:

87A.630 1. To become a registered limited-liability limited partnership, a limited partnership shall file with the Secretary of State a certificate of registration stating each of the following:

(a) The name of the limited partnership.

(b) The street address of its principal office.

(c) The information required pursuant to NRS 77.310.

(d) The name and business address of each organizer signing the certificate.

(e) The name and business address of each initial general partner.

(f) That the limited partnership thereafter will be a registered limited-liability limited partnership.

(g) Any other information that the limited partnership wishes to include.

2. The certificate of registration must be signed by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers contribution obligations, the vote necessary to amend those provisions.

3. The Secretary of State shall register as a registered limited-liability limited partnership any limited partnership that submits a completed certificate of registration with the required fee.

4. ***A partnership may register as a registered limited-liability limited partnership at the time it files a certificate of limited partnership by filing a combined certificate of limited partnership and limited-liability limited partnership with the Secretary of State and paying the fees prescribed in subsections 1 and 2 of NRS 87A.315.***

5. The registration of a registered limited-liability limited partnership is effective on the later of the filing of the certificate of registration or a date specified in the certificate of registration.

Sec. 37. NRS 87A.640 is hereby amended to read as follows:

87A.640 1. A registered limited-liability limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** registered limited-liability limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 38. NRS 88.3355 is hereby amended to read as follows:

88.3355 1. A limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information

required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 39. NRS 88.339 is hereby amended to read as follows:

88.339 1. A limited partnership may correct a record filed in the Office of the Secretary of State with respect to the limited partnership if the record contains an inaccurate description of a partnership action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the limited partnership must:

(a) Prepare a certificate of correction that:

(1) States the name of the limited partnership;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a general partner of the limited partnership.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a limited partnership has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the limited partnership may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 40. NRS 88.395 is hereby amended to read as follows:

88.395 1. A limited partnership shall, on or before the last day of the first month after the filing of its certificate of limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of limited partnership occurs, file with the Secretary of State, on a form furnished by him, a list that contains:

(a) The name of the limited partnership;

(b) The file number of the limited partnership, if known;

(c) The names of all of its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the limited partnership certifying that the list is true, complete and accurate.

➥ Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the limited partnership has complied with the provisions of NRS 360.780 and which acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Except as otherwise provided in subsection 3, a limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $125.

3. A registered limited-liability limited partnership shall, upon filing:

(a) The initial list required by subsection 1, pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, pay to the Secretary of State a fee of $175.

4. If a general partner of a limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[~~~~cause to be mailed~~~~]~~ ***provide*** to each limited partnership which is required to comply with the provisions of this section, and which has not become delinquent, a notice of the fee due pursuant to the provisions of subsection 2 or 3, as appropriate, and a reminder to file the annual list ~~[.]~~ ***required pursuant to subsection 1.*** Failure

of any limited partnership to receive a notice ~~[or form]~~ does not excuse it from the penalty imposed by NRS 88.400.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 2 or 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a limited partnership not in default that is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

8. A filing made pursuant to this section does not satisfy the provisions of NRS 88.355 and may not be substituted for filings submitted pursuant to NRS 88.355.

Sec. 41. (Deleted by amendment.)

Sec. 42. NRS 88.591 is hereby amended to read as follows:

88.591 1. Each foreign limited partnership doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign limited partnership with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign limited partnership;

(b) The file number of the foreign limited partnership, if known;

(c) The names of all its general partners;

(d) The address, either residence or business, of each general partner;

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a general partner of the foreign limited partnership certifying that the list is true, complete and accurate.

2. Each list filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign limited partnership:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign limited partnership shall pay to the Secretary of State a fee of $125.

4. If a general partner of a foreign limited partnership resigns and the resignation is not reflected on the annual or amended list of general partners, the foreign limited partnership or the resigning general partner shall pay to the Secretary of State a fee of $75 to file the resignation of the general partner.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each foreign limited partnership, which is required to comply with the provisions of NRS 88.591 to 88.5945, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign limited partnership to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 88.591 to 88.5945, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign limited partnership not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 43. NRS 88.5927 is hereby amended to read as follows:

88.5927 1. A foreign limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate authorizing the foreign limited partnership to transact business in this State.

5. The Secretary of State shall not reinstate or revive a certificate authorizing a foreign limited partnership to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate authorizing the foreign limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 44. NRS 88.606 is hereby amended to read as follows:

88.606 1. To become a registered limited-liability limited partnership, a limited partnership shall file with the Secretary of State a certificate of registration stating each of the following:

(a) The name of the limited partnership.

(b) The street address of its principal office.

(c) The information required pursuant to NRS 77.310.

(d) The name and business address of each organizer signing the certificate.

(e) The name and business address of each initial general partner.

(f) That the limited partnership thereafter will be a registered limited-liability limited partnership.

(g) Any other information that the limited partnership wishes to include.

2. The certificate of registration must be signed by the vote necessary to amend the partnership agreement or, in the case of a partnership agreement that expressly considers contribution obligations, the vote necessary to amend those provisions.

3. The Secretary of State shall register as a registered limited-liability limited partnership any limited partnership that submits a completed certificate of registration with the required fee.

4. ***A partnership may register as a registered limited-liability limited partnership at the time of filing its certificate of limited partnership by filing a combined certificate of limited partnership and limited-liability limited partnership with the Secretary of State and paying the fees required pursuant to subsections 1 and 2 of NRS 88.415.***

5. The registration of a registered limited-liability limited partnership is effective at the time of the filing of the certificate of registration.

Sec. 45. NRS 88.6067 is hereby amended to read as follows:

88.6067 1. A registered limited-liability limited partnership shall maintain at its registered office or principal place of business in this State:

(a) A current list of each general partner; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** registered limited-liability limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a registered limited-liability limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a registered limited-liability limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of registration.

5. The Secretary of State shall not reinstate or revive a certificate of registration that was revoked or suspended pursuant to subsection 4 unless:

(a) The registered limited-liability limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the certificate of registration.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 46. NRS 88A.345 is hereby amended to read as follows:

88A.345 1. ~~[A]~~ ***Upon the request of the Secretary of State, a*** business trust shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the ledger, duplicate ledger or statement described in subsection 1 of NRS 88A.340. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the ledger, duplicate ledger or statement described in subsection 1 of NRS 88A.340.

2. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a business trust to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the ledger, duplicate ledger or statement required to be maintained pursuant to subsection 1 of NRS 88A.340; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

3. If a business trust fails to comply with any requirement pursuant to subsection 2, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the certificate of trust.

4. The Secretary of State shall not reinstate or revive a certificate of trust that was revoked or suspended pursuant to subsection 3 unless:

(a) The business trust complies with the requirements of subsection 2; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the business trust.

5. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 47. NRS 88A.600 is hereby amended to read as follows:

88A.600 1. A business trust formed pursuant to this chapter shall, on or before the last day of the first month after the filing of its certificate of trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of the filing of its certificate of trust with the Secretary of State occurs, file with the Secretary of State, on a form furnished by him, a list signed by at least one trustee that contains the name and street address of at least one trustee and the information required pursuant to NRS 77.310. Each list filed pursuant to this subsection must be accompanied by a declaration under penalty of perjury that the business trust:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

2. Upon filing:

(a) The initial list required by subsection 1, the business trust shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by subsection 1, the business trust shall pay to the Secretary of State a fee of $125.

3. If a trustee of a business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the business trust or the resigning trustee shall pay to the Secretary of State a fee of $75 to file the resignation.

4. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each business trust which is required to comply with the provisions of NRS 88A.600 to 88A.660, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 2 and a reminder to file the list required pursuant to subsection 1.*** Failure of a business trust to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by law.

5. An annual list for a business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year.

Sec. 48. NRS 88A.732 is hereby amended to read as follows:

88A.732 1. Each foreign business trust doing business in this State shall, on or before the last day of the first month after the filing of its application for registration as a foreign business trust with the Secretary of State, and annually thereafter on or before the last day of the month in which the anniversary date of its qualification to do business in this State occurs in

each year, file with the Secretary of State a list, on a form furnished by him, that contains:

(a) The name of the foreign business trust;

(b) The file number of the foreign business trust, if known;

(c) The name of at least one of its trustees;

(d) The address, either residence or business, of the trustee listed pursuant to paragraph (c);

(e) The information required pursuant to NRS 77.310; and

(f) The signature of a trustee of the foreign business trust certifying that the list is true, complete and accurate.

2. Each list required to be filed pursuant to this section must be accompanied by a declaration under penalty of perjury that the foreign business trust:

(a) Has complied with the provisions of NRS 360.780; and

(b) Acknowledges that pursuant to NRS 239.330 **,** it is a category C felony to knowingly offer any false or forged instrument for filing in the Office of the Secretary of State.

3. Upon filing:

(a) The initial list required by this section, the foreign business trust shall pay to the Secretary of State a fee of $125.

(b) Each annual list required by this section, the foreign business trust shall pay to the Secretary of State a fee of $125.

4. If a trustee of a foreign business trust resigns and the resignation is not reflected on the annual or amended list of trustees, the foreign business trust or the resigning trustee shall pay to the Secretary of State a fee of $75 to file the resignation.

5. The Secretary of State shall, 90 days before the last day for filing each annual list required by subsection 1, ~~[cause to be mailed]~~ ***provide*** to each foreign business trust which is required to comply with the provisions of NRS 88A.732 to 88A.738, inclusive, and which has not become delinquent, ~~[the blank forms to be completed and filed with him.]~~ ***a notice of the fee due pursuant to subsection 3 and a reminder to file the list required pursuant to subsection 1.*** Failure of any foreign business trust to receive ~~[the forms]~~ ***a notice*** does not excuse it from the penalty imposed by the provisions of NRS 88A.732 to 88A.738, inclusive.

6. If the list to be filed pursuant to the provisions of subsection 1 is defective or the fee required by subsection 3 is not paid, the Secretary of State may return the list for correction or payment.

7. An annual list for a foreign business trust not in default which is received by the Secretary of State more than 90 days before its due date shall be deemed an amended list for the previous year and does not satisfy the requirements of subsection 1 for the year to which the due date is applicable.

Sec. 49. NRS 88A.7345 is hereby amended to read as follows:

88A.7345 1. A foreign business trust shall maintain at its registered office:

(a) A current list of its beneficial owners; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** foreign business trust shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a foreign business trust to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a foreign business trust fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the foreign business trust to transact business in this State.

5. The Secretary of State shall not reinstate or revive the right of a foreign business trust to transact business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The foreign business trust complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the foreign business trust to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 50. NRS 88A.930 is hereby amended to read as follows:

88A.930 1. A business trust may correct a record filed in the Office of the Secretary of State with respect to the business trust if the record contains an inaccurate description of a trust action or if the record was defectively signed, attested, sealed, verified or acknowledged.

2. To correct a record, the business trust must:

(a) Prepare a certificate of correction that:

(1) States the name of the business trust;

(2) Describes the record, including, without limitation, its filing date;

(3) Specifies the inaccuracy or defect;

(4) Sets forth the inaccurate or defective portion of the record in an accurate or corrected form; and

(5) Is signed by a trustee of the business trust.

(b) Deliver the certificate to the Secretary of State for filing.

(c) Pay a filing fee of $175 to the Secretary of State.

3. A certificate of correction is effective on the effective date of the record it corrects except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, the certificate is effective when filed.

4. If a business trust has made a filing with the Secretary of State and the Secretary of State has not processed the filing and placed the filing into the public record, the business trust may cancel the filing by:

(a) Filing a statement of cancellation with the Secretary of State; and

(b) Paying a fee of $50.

Sec. 51. NRS 89.045 is hereby amended to read as follows:

89.045 1. A professional entity shall maintain at its registered office or principal place of business in this State:

(a) A current list of its owners of record; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** professional entity shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a professional entity to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a professional entity fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the corporate charter.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The professional entity complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the corporate charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 52. NRS 89.251 is hereby amended to read as follows:

89.251 1. A professional association shall maintain at its registered office or principal place of business in this State:

(a) A current list of each member; or

(b) A statement indicating where such a list is maintained.

2. ~~[The]~~ ***Upon the request of the Secretary of State, the*** professional association shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1. The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a professional association to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a professional association fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the articles of association.

5. The Secretary of State shall not reinstate or revive articles of association that were revoked or suspended pursuant to subsection 4 unless:

(a) The professional association complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the articles of association.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 53. Chapter 92A of NRS is hereby amended by adding thereto a new section to read as follows:

If an entity has made a filing with the Secretary of State pursuant to this chapter and the Secretary of State has not processed the filing and placed the filing into the public record, the entity may cancel the filing by:

1. Filing a statement of cancellation with the Secretary of State; and

2. Paying a fee of $50.

Sec. 53.5. **NRS 92A.270 is hereby amended to read as follows:**

92A.270 1. Any undomesticated organization may become domesticated in this State as a domestic entity by:

(a) Paying to the Secretary of State the fees required pursuant to this title for filing the charter document; and

(b) Filing with the Secretary of State:

(1) Articles of domestication which must be signed by an authorized representative of the undomesticated organization approved in compliance with subsection 6;

(2) The appropriate charter document for the type of domestic entity; ~~[and]~~

(3) The information required pursuant to NRS 77.310 ~~[.]~~ ***;***

(4) A certified copy of the charter document of the undomesticated organization; and

(5) A certificate of good standing, or the equivalent, from the jurisdiction where the undomesticated organization was chartered immediately before filing the articles of domestication pursuant to subparagraph (1).

2. The articles of domestication must set forth the:

(a) Date when and the jurisdiction where the undomesticated organization was first formed, incorporated, organized or otherwise created ~~[.]~~ ***and, if applicable, any date when and jurisdiction where the undomesticated organization was chartered after its formation;***

(b) Name of the undomesticated organization immediately before filing the articles of domestication;

(c) Name and type of domestic entity as set forth in its charter document pursuant to subsection 1; and

(d) Jurisdiction that constituted the principal place of business or central administration of the undomesticated organization, or any other equivalent thereto pursuant to applicable law ~~[,~~ ~~or~~ ~~]~~ immediately before filing the articles of domestication.

3. Upon filing the articles of domestication and the charter document with the Secretary of State, and the payment of the requisite fee for filing the charter document of the domestic entity, the undomesticated organization is domesticated in this State as the domestic entity described in the charter document filed pursuant to subsection 1. The existence of the domestic entity begins on the date the undomesticated organization began its existence in the jurisdiction in which the undomesticated organization was first formed, incorporated, organized or otherwise created.

4. The domestication of any undomesticated organization does not affect any obligations or liabilities of the undomesticated organization incurred before its domestication.

5. The filing of the charter document of the domestic entity pursuant to subsection 1 does not affect the choice of law applicable to the undomesticated organization. From the date the charter document of the domestic entity is filed, the law of this State applies to the domestic entity to the same extent as if the undomesticated organization was organized and created as a domestic entity on that date.

6. Before filing articles of domestication, the domestication must be approved in the manner required by:

(a) The document, instrument, agreement or other writing governing the internal affairs of the undomesticated organization and the conduct of its business; and

(b) Applicable foreign law.

7. When a domestication becomes effective, all rights, privileges and powers of the undomesticated organization, all property owned by the undomesticated organization, all debts due to the undomesticated organization, and all causes of action belonging to the undomesticated organization are vested in the domestic entity and become the property of the domestic entity to the same extent as vested in the undomesticated organization immediately before domestication. The title to any real property vested by deed or otherwise in the undomesticated organization is not reverted or impaired by the domestication. All rights of creditors and all liens upon any property of the undomesticated organization are preserved unimpaired and all debts, liabilities and duties of an undomesticated organization that has been domesticated attach to the domestic entity resulting from the domestication and may be enforced against it to the same extent as if the debts, liability and duties had been incurred or contracted by the domestic entity.

8. When an undomesticated organization is domesticated, the domestic entity resulting from the domestication is for all purposes deemed to be the same entity as the undomesticated organization. Unless otherwise agreed by the owners of the undomesticated organization or as required pursuant to applicable foreign law, the domestic entity resulting from the domestication is not required to wind up its affairs, pay its liabilities or distribute its assets. The domestication of an undomesticated organization does not constitute the dissolution of the undomesticated organization. The domestication constitutes a continuation of the existence of the undomesticated organization in the form of a domestic entity. If, following domestication, an undomesticated organization that has become domesticated pursuant to this section continues its existence in the foreign country or foreign jurisdiction in which it was existing immediately before the domestication, the domestic entity and the undomesticated organization are for all purposes a single entity formed, incorporated, organized or otherwise created and existing pursuant to the laws of this State and the laws of the foreign country or other foreign jurisdiction.

9. ***The owner liability of an undomesticated organization that is domesticated in this State:***

(a) Is not discharged, pursuant to the laws of the previous jurisdiction of the organization, to the extent the owner liability arose before the effective date of the articles of domestication;

(b) Does not attach, pursuant to the laws of the previous jurisdiction of the organization, to any debt, obligation or liability of the organization that arises after the effective date of the articles of domestication;

(c) Is governed by the law of the previous jurisdiction of the organization, as if the domestication has not occurred, for the collection or discharge of owner liability not discharged pursuant to paragraph (a);

(d) Is subject to the right of contribution from any other shareholder, member, trustee, partner, limited partner or other owner of the

undomesticated organization pursuant to the laws of the previous jurisdiction of the organization, as if the domestication has not occurred, for the collection or discharge of owner liability not discharged pursuant to paragraph (a); and

(e) Applies only to the debts, obligations or liabilities of the organization that arise after the effective date of the articles of domestication if the owner becomes subject to owner liability or some or all of the debts, obligations or liabilities of the undomesticated entity as a result of its domestication in this State.

10. As used in this section ~~[, "undomesticated]~~ **:**

(a) "Owner liability" means the liability of a shareholder, member, trustee, partner, limited partner or other owner of an organization for debts of the organization, including the responsibility to make additional capital contributions to cover such debts.

(b) "Undomesticated organization" means any incorporated organization, private law corporation, whether or not organized for business purposes, public law corporation, general partnership, registered limited-liability partnership, limited partnership or registered limited-liability limited partnership, proprietorship, joint venture, foundation, business trust, real estate investment trust, common-law trust or any other unincorporated business formed, organized, created or the internal affairs of which are governed by the laws of any foreign country or jurisdiction other than ~~[the United States, the District of Columbia or another state, territory, possession, commonwealth or dependency of the United States.]~~ ***this State.***

Sec. 54. NRS 360.765 is hereby amended to read as follows:

360.765 1. Except as otherwise provided in subsection 2, "business" means:

(a) Any person, except a natural person, that performs a service or engages in a trade for profit; ~~[or]~~

(b) Any natural person who performs a service or engages in a trade for profit if the person is required to file with the Internal Revenue Service a Schedule C (Form 1040), Profit or Loss From Business Form, or its equivalent or successor form, a Schedule E (Form 1040), Supplemental Income and Loss Form, or its equivalent or successor form, or a Schedule F (Form 1040), Profit or Loss From Farming Form, or its equivalent or successor form, for that activity ~~[.]~~ ***; or***

(c) Any entity organized pursuant to title 7 of NRS, including, without limitation, those entities required to file with the Secretary of State, whether or not the entity performs a service or engages in a business for profit.

2. The term does not include:

(a) A governmental entity.

(b) A nonprofit religious, charitable, fraternal or other organization that qualifies as a tax-exempt organization pursuant to 26 U.S.C. 501(c).

(c) A person who operates a business from his home and whose net earnings from that business are not more than 66 2/3 percent of the average annual wage, as computed for the preceding calendar year pursuant to chapter 612 of NRS and rounded to the nearest hundred dollars.

(d) A natural person whose sole business is the rental of four or fewer dwelling units to others.

(e) A business whose primary purpose is to create or produce motion pictures. As used in this paragraph, "motion pictures" has the meaning ascribed to it in NRS 231.020.

(f) A business organized pursuant to chapters 82 or 84 of NRS.

Sec. 55. NRS 360.780 is hereby amended to read as follows:

360.780 1. Except as otherwise provided in subsection 7, a person shall not conduct a business in this State unless he has a state business license issued by the Department.

2. An application for a state business license must:

(a) Be made upon a form prescribed by the Department;

(b) Set forth the name under which the applicant transacts or intends to transact business ***, or if the applicant is a business organized pursuant to title 7 of NRS and on file with the Secretary of State, the exact name on file with the Secretary of State,*** and the location ***in this State*** of his place or places of business;

(c) Be accompanied by a fee of $100; and

(d) Include any other information that the Department deems necessary.

➥ If the applicant is a business organized pursuant to title 7 of NRS and on file with the Secretary of State and the applicant has no location in this State of its place of business, the address of its registered agent shall be deemed to be the location in this State of its place of business.

3. The application must be signed by:

(a) The owner, if the business is owned by a natural person;

(b) A member or partner, if the business is owned by an association or partnership; or

(c) An officer or some other person specifically authorized to sign the application, if the business is owned by a corporation.

4. If the application is signed pursuant to paragraph (c) of subsection 3, written evidence of the signer's authority must be attached to the application.

5. The state business license required to be obtained pursuant to this section is in addition to any license to conduct business that must be obtained from the local jurisdiction in which the business is being conducted.

6. For the purposes of NRS 360.760 to 360.798, inclusive, a person shall be deemed to conduct a business in this State if a business for which the person is responsible:

(a) Is organized pursuant to title 7 of NRS, other than a business organized pursuant to chapter 82 or 84 of NRS;

(b) Has an office or other base of operations in this State; ~~[or]~~

(c) ***Has a registered agent in this State; or***

(d) Pays wages or other remuneration to a natural person who performs in this State any of the duties for which he is paid.

7. A person who takes part in an exhibition held in this State for a purpose related to the conduct of a business is not required to obtain a state business license specifically for that event if the operator of the facility where the exhibition is held pays the licensing fee on behalf of that person pursuant to NRS 360.787.

8. As used in this section, "registered agent" has the meaning ascribed to it in NRS 77.230.

Sec. 56. 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.

Senate Bill No. 89.

Bill read second time.

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

Amendment No. 719.

AN ACT relating to manufactured housing; providing for the licensure of distributors of manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing for resale; providing for the regulation of dealers, manufacturers, salesmen, general servicemen and specialty servicemen with respect to manufactured buildings and factory-built housing; authorizing the auditing of the financial accounts of dealers and distributors; requiring the adoption of regulations concerning continuing education requirements for dealers and distributors; revising the procedure for determining the fair market value of manufactured homes under certain circumstances; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2, 29-32 and 37-40 of this bill provide for the licensure of distributors of manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing by the Manufactured Housing Division of the Department of Business and Industry.

Section 12 of this bill authorizes the Division to audit the financial accounts of a dealer or distributor of manufactured housing to investigate insolvency or to administer or enforce any law.

Sections 16-23, 35, 36 and 55-57 of this bill provide for the regulation of dealers, manufacturers, salesmen, general servicemen and specialty servicemen with respect to manufactured buildings and factory-built housing.

Section 28 of this bill requires the Division to adopt regulations concerning continuing education requirements for dealers and distributors.

Sections 41-43 of this bill expand the grounds for disciplinary actions against persons licensed by the Division.

Section 46 of this bill requires the Division to adopt regulations establishing a fee for the issuance of a license as a distributor. **Section 47** of this bill requires a distributor to pay an additional fee upon the issuance or renewal of his license. This additional fee is currently imposed on dealers and manufacturers and is required to be deposited in the Account for Education and Recovery Relating to Manufactured Housing in the Fund for Manufactured Housing and to be used to satisfy the claims of purchasers of manufactured housing against licensees for fraud, misrepresentation or deceit.

Sections 59-62 of this bill revise provisions governing the financial and fiduciary duties of dealers.

Sections 63, 75 and 82 of this bill provide limitations on actions against the Division and its officers and employees.

Section 70 of this bill provides that a dealer is guilty of a gross misdemeanor if: (1) he fails to cooperate or comply with or knowingly impedes or interferes with an investigation or audit conducted by the Division; or (2) he acts as a dealer while insolvent or engages in any financial practice which creates a substantial risk of insolvency.

Sections 72-74.5 and 78-81 of this bill revise the procedure for determining the fair market value of manufactured homes under certain circumstances.

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

Section 1. Chapter 489 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. ***"Distributor" means any person who engages in the sale and distribution of manufactured homes, mobile homes, manufactured buildings, commercial coaches or factory-built housing for resale.***

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. ***"Factory-built housing" has the meaning ascribed to it in NRS 461.080.***

Sec. 7. ***"Franchise" means a written agreement between a franchisor and franchisee which establishes that the franchisee will sell or distribute new or used manufactured homes, mobile homes, manufactured buildings, commercial coaches, factory-built housing or related goods or services under, or operate using, the systems, trademark, service mark, trade name, logo or other commercial symbol of the franchisor.***

Sec. 8. ***"Franchisee" means any natural person or entity that, pursuant to a franchise, sells or distributes new or used manufactured homes, mobile homes, manufactured buildings, commercial coaches, factory-built housing or related goods or services under, or operates using,***

the systems, trademark, service mark, trade name, logo or other commercial symbol of the franchisor.

Sec. 9. ***"Franchisor" means any natural person or entity that owns the overall rights to the systems, trademark, service mark, trade name, logo or other commercial symbol of the franchisor and grants a franchise for their use by a franchisee.***

Sec. 10. ***"Manufactured building" has the meaning ascribed to it in NRS 461.132.***

Sec. 10.5. ***"Modular component" has the meaning ascribed to it in NRS 461.145.***

Sec. 11. (Deleted by amendment.)

Sec. 12. ***1. The Division may investigate and audit any financial account, including, without limitation, any trust account, related to the business of a dealer or distributor if:***

(a) The Division has reasonable cause to believe that the dealer or distributor is using or has used the account to carry on the business of the dealer or distributor; and

(b) The Division:

(1) Has reasonable cause to believe or has received a credible complaint that the dealer or distributor is insolvent or is in a financial condition, or has engaged in a financial practice, which creates a substantial risk of insolvency; or

(2) Determines that the investigation and audit are reasonably necessary to assist the Division in administering or enforcing any provision of law.

2. The Administrator shall adopt regulations prescribing the scope of an audit conducted pursuant to this section.

3. As used in this section, "insolvency" or "insolvent" means a condition under which a dealer or distributor is unable to meet the liabilities of his business as they become due in the regular course of business and which creates a substantial risk of harm to the public or a consumer.

Sec. 13. ***As used in this section and NRS 489.4971 to 489.4989, inclusive, "Account" means the Account for Education and Recovery Relating to Manufactured Housing created by NRS 489.4971.***

Sec. 14. NRS 489.021 is hereby amended to read as follows:

489.021 1. The Legislature finds that the construction, assembly and use of manufactured homes, mobile homes, travel trailers **[**and**]** ***, manufactured buildings,*** commercial coaches ***and factory-built housing*** and their systems, components and appliances, and the alteration, transportation and installation of manufactured homes, mobile homes **[**~~and~~**]** ***, manufactured buildings,*** commercial coaches **[**~~,~~**]** ***and factory-built housing,*** like other products having concealed vital parts, may present hazards to the health, life and safety of persons and the safety of property unless they are properly manufactured, altered, transported and installed.

2. In the sale of manufactured homes, mobile homes, travel trailers ~~[and]~~ ***, manufactured buildings,*** commercial coaches ~~[,]~~ ***and factory-built housing,*** there is also the possibility of unascertained defects in them even though they are inspected by purchasers.

3. It is the policy and purpose of this State to protect the public against these hazards and to prohibit the manufacture, sale, ***distribution,*** alteration, transportation and installation in this State of manufactured homes, mobile homes, travel trailers ~~[and]~~ ***, manufactured buildings,*** commercial coaches ***and factory-built housing*** which are not constructed in a manner which provides reasonable safety and protection to owners and users.

4. The Legislature further intends to provide a procedure to ~~[assure]~~ ***ensure*** that this State assumes the fullest responsibility for the administration and enforcement of federal safety and construction standards for manufactured homes in Nevada in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 ***,*** ~~[(]~~ 42 U.S.C. 5401 et seq. ~~[).]~~

Sec. 15. NRS 489.031 is hereby amended to read as follows:

489.031 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 489.036 to 489.155, inclusive, ***and sections 2 to 10.5, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 16. NRS 489.043 is hereby amended to read as follows:

489.043 "Brokerage agreement" means a contract between a dealer and a client in which the dealer agrees to accept compensation to:

1. Assist, solicit or negotiate the sale or exchange of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[;]~~ ***or factory-built housing;*** or

2. Induce any person to buy or exchange an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[.]~~ ***or factory-built housing.***

Sec. 17. NRS 489.076 is hereby amended to read as follows:

489.076 1. "Dealer" means any person who:

(a) For compensation, money or any other thing of value, sells, exchanges, buys or offers for sale, negotiates or attempts to negotiate a sale or exchange of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** subject to the requirements of this chapter, or induces or attempts to induce any person to buy or exchange an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[;]~~ ***or factory-built housing;***

(b) For compensation, money or any other thing of value, leases or rents, offers for lease or rental, negotiates or attempts to negotiate the lease or rental of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** subject to the requirements of this chapter, or induces or attempts to induce any person to

lease or rent an interest in a manufactured home, mobile home **,** ***manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing;***

(c) Receives or expects to receive a commission, money, brokerage fees, profit or any other thing of value from either the seller or purchaser of any manufactured home, mobile home ~~[or]~~ **,** ***manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing;***

(d) Is engaged wholly or in part in the business of:

(1) Selling, renting or leasing manufactured homes, mobile homes ~~[or]~~ **,** ***manufactured buildings,*** commercial coaches ~~[,]~~ ***or factory-built housing;***

(2) Buying or taking manufactured homes, mobile homes ~~[or]~~ **,** ***manufactured buildings,*** commercial coaches ***or factory-built housing*** in trade for the purpose of resale, selling ~~[,]~~ or offering them for sale or consignment to be sold;

(3) Buying or taking manufactured homes, mobile homes ~~[or]~~ **,** ***manufactured buildings,*** commercial coaches ***or factory-built housing*** in trade to rent, lease or offer them for rent or lease; or

(4) Otherwise dealing in manufactured homes, mobile homes ~~[or]~~ **,** ***manufactured buildings,*** commercial coaches ~~[,]~~ ***or factory-built housing;*** or

(e) Acts as a repossessor or liquidator concerning manufactured homes, mobile homes ~~[or]~~ **,** ***manufactured buildings,*** commercial coaches ~~[,]~~ ***or factory-built housing,***

➥ whether or not they are owned by such persons.

2. The term does not include:

(a) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the order of any court;

(b) Public officers while performing their official duties;

(c) Banks, savings and loan associations, credit unions, thrift companies or other financial institutions proceeding as repossessors or liquidators of their own security;

(d) A person who rents or leases his manufactured home, mobile home ~~[or]~~ **,** ***manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing;***

(e) An owner selling his private residence; or

(f) A real estate broker, real estate broker-salesman or real estate salesman who is licensed pursuant to chapter 645 of NRS and who, for another and for compensation or with the intention or expectation of receiving compensation, sells, exchanges, options, purchases, rents or leases, or negotiates or offers, attempts or agrees to negotiate the sale, exchange, option, purchase, rental or lease of, or lists or solicits prospective purchasers, lessees or renters of, used manufactured homes or used mobile homes in connection with the sale of a fee simple interest in real property and the used manufactured home or used mobile home is situated on the real property sold.

Sec. 18. NRS 489.102 is hereby amended to read as follows:

489.102 1. "General serviceman" means a person who owns or is the responsible managing employee of a business which:

(a) Installs or repairs the awnings, roofing, skirting, plumbing, heating or electrical systems of a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing;***

(b) Installs ***,*** ~~*[or]*~~ removes or ~~[tears down]~~ ***prepares for transport*** a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** at the site where it will be or has been used for occupancy; or

(c) Reconstructs a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** by the alteration, addition or substitution of substantial or essential parts.

2. The term does not include:

(a) A licensed manufacturer engaged in the ***installation,*** repair or service of a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** that was manufactured by the licensed manufacturer;

(b) The owner or purchaser of a manufactured home ***,*** ~~[or]~~ mobile home ***or manufactured building or factory-built housing*** who uses the manufactured home ***,*** ~~[or]~~ mobile home ***or manufactured building or factory-built housing*** as his private residence; or

(c) The owner or purchaser of a commercial coach who uses the commercial coach for his own industrial, professional or commercial purposes.

Sec. 19. NRS 489.115 is hereby amended to read as follows:

489.115 "Manufacturer" means every person ***, including, without limitation, a partnership, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company, or a corporation,*** engaged in the business of manufacturing manufactured homes, mobile homes, travel trailers ~~[or]~~ ***, manufactured buildings,*** commercial coaches ~~[.]~~ ***or factory-built housing.***

Sec. 20. NRS 489.125 is hereby amended to read as follows:

489.125 "New manufactured home," "new mobile home," "new travel trailer" ~~[or]~~ ***, "new manufactured building,"*** "new commercial coach" ***or "new factory-built housing"*** means a manufactured home, mobile home, travel trailer ***, manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing,*** respectively, which has never been sold at retail or occupied either ~~[prior to]~~ ***before*** or after sale for the purpose intended by the manufacturer and has never been registered with or been the subject of a certificate of title issued by the appropriate agency of authority of any other state, the District of Columbia, any territory or possession of the United States or ***any*** foreign state, province or country.

Sec. 21. NRS 489.137 is hereby amended to read as follows:

489.137 "Salesman" means any person employed by a dealer ***or distributor*** under any form of contract or arrangement to sell, ***distribute,*** rent,

lease, exchange or buy, or offer for sale, ***distribution,*** rental, lease or exchange, an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** to any person, and who receives or expects to receive a commission, fee or any other consideration from his employer.

Sec. 22. NRS 489.147 is hereby amended to read as follows:

489.147 1. "Specialty serviceman" means a person who owns or is the ***designated*** responsible managing employee of a business which is limited in the scope of the work it may perform on or in a manufactured home, mobile home ***, manufactured building, modular component*** or commercial coach ***or factory-built housing*** in accordance with NRS 489.325.

2. The term does not include:

(a) A licensed manufacturer engaged in the repair or service of a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** that was manufactured by the licensed manufacturer;

(b) The owner or purchaser of a manufactured home ***,*** ~~[or]~~ mobile home ***or manufactured building or factory-built housing*** who uses the manufactured home ***,*** ~~[or]~~ mobile home ***or manufactured building or factory-built housing*** as his private residence; or

(c) The owner or purchaser of a commercial coach who uses the commercial coach for his own industrial, professional or commercial purposes.

Sec. 23. NRS 489.155 is hereby amended to read as follows:

489.155 "Used manufactured home," "used mobile home," "used travel trailer" ~~[or]~~ ***, "used manufactured building,"*** "used commercial coach" ***or "used factory-built housing"*** means a manufactured home, mobile home, travel trailer ***, manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing,*** respectively, which has been:

1. Sold, rented or leased and occupied ~~[prior to]~~ ***before*** or after the sale, rental or lease; or

2. Registered with or been the subject of a certificate of title issued by the appropriate agency of authority of any other state, the District of Columbia, or any territory or possession of the United States or ***any*** foreign state, province or country.

Sec. 24. NRS 489.211 is hereby amended to read as follows:

489.211 The Administrator ***:*** ~~[shall:]~~

1. ~~[Possess]~~ ***Must possess*** a broad knowledge of generally accepted management practices and be reasonably well informed on laws governing manufactured homes, mobile homes, travel trailers ***, manufactured buildings, factory-built housing*** and commercial coaches.

2. ~~[Hold no]~~ ***Shall not hold an*** interest in any firm which sells, ***distributes,*** manufactures, rebuilds or services any manufactured home, mobile home, travel trailer ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** or ***which*** installs any manufactured home, mobile

home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[, nor may he]~~ ***or factory-built housing, or*** act as agent for any of them.

Sec. 25. NRS 489.221 is hereby amended to read as follows:

489.221 ~~[No]~~ ***An*** employee of the Division ~~[may]~~ ***shall not*** hold an interest in any firm which sells, ***distributes,*** manufactures, rebuilds or services any manufactured home, mobile home, travel trailer ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** or ***which*** installs any manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[, nor]~~ ***or factory-built housing, or*** act as an agent for any of them.

Sec. 26. NRS 489.231 is hereby amended to read as follows:

489.231 1. ~~[In order to]~~ ***To*** carry out the provisions of this chapter, the Administrator may:

(a) Issue subpoenas for the attendance of witnesses or the production of books, papers and documents; and

(b) Conduct hearings.

2. The Administrator may apply for and receive grants from the Secretary of Housing and Urban Development for developing and carrying out a plan for enforcement and administration of federal standards of safety and construction respecting manufactured homes offered for sale or lease in this State.

3. The Administrator may adopt regulations to ensure acceptance by the Secretary of Housing and Urban Development of the state plan for administration and enforcement of federal standards of safety and construction respecting manufactured homes in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 ***,*** ~~[(]~~ 42 U.S.C. 5401 et seq. ~~[).]~~

4. The Administrator may:

(a) Make inspections;

(b) Approve plans and specifications;

(c) Provide technical services;

(d) Issue licenses, ***permits,*** certificates of ownership and certificates and labels of compliance and installation;

(e) Enter into reciprocal agreements with other states or private organizations that adopt and maintain standards reasonably consistent with this chapter;

(f) Collect the fees provided for in this chapter; and

(g) Adopt regulations necessary to carry out his duties under this chapter.

5. The Administrator or his representative may enter, at reasonable times and without notice, any mobile home park or place of business or any factory, warehouse or establishment in which manufactured homes, mobile homes ***,*** ~~[or]~~ travel trailers ***, manufactured buildings or factory-built housing*** are manufactured, stored or held for sale ***or distribution*** and inspect at reasonable times in a reasonable manner the premises and books, papers, records and documents which are relevant to the manufacture ***, distribution***

and sale of manufactured homes, mobile homes **,** ~~[or]~~ travel trailers **,** ***manufactured buildings or factory-built housing*** and compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974 **,** ~~[(]~~ 42 U.S.C. 5401 et seq. ~~[)]~~ ***, this chapter and chapter 461 of NRS, and any regulations adopted pursuant thereto,*** and to compliance by landlords of mobile home parks with the prohibition in NRS 118B.140 against charging or receiving any entrance or exit fee. A magistrate shall issue a warrant to permit an inspection if the Administrator has shown:

(a) Evidence that a violation of a provision of this chapter or of the prohibition in NRS 118B.140 against charging or receiving any entrance or exit fee has been committed or is being committed; or

(b) That the business has been chosen for an inspection on the basis of a general administrative plan for the enforcement of the provisions of this chapter.

Sec. 27. NRS 489.263 is hereby amended to read as follows:

489.263 1. The Administrator may adopt regulations establishing a system for the issuance ~~[and renewal]~~ of permits for the installation, design, approval ***, repair*** or modification of manufactured homes, mobile homes ~~[or]~~ ***, manufactured buildings,*** commercial coaches ~~[.]~~ ***or factory-built housing.***

2. The regulations may include, without limitation:

(a) The requirements and procedures for applying for ~~[and renewing]~~ a permit;

(b) The criteria for determining whether to issue ~~[or renew]~~ a permit;

(c) The grounds for revocation and the requirements for reinstatement of a permit; and

(d) The procedures for the enforcement of a system for issuing ~~[and renewing]~~ permits.

Sec. 28. NRS 489.285 is hereby amended to read as follows:

489.285 1. The Division shall adopt regulations concerning continuing education requirements for ***dealers, distributors,*** general servicemen **,** ~~[and]~~ specialty servicemen **,** ~~[of manufactured homes, mobile homes or commercial coaches, and]~~ responsible managing employees and salesmen. The regulations must include the:

(a) Criteria for determining what qualifies as continuing education;

(b) Criteria for approving educational and training programs;

(c) Requirements for submitting evidence of completion; and

(d) Grounds and procedures for granting an extension of time within which to comply with continuing education requirements.

2. In adopting regulations pursuant to subsection 1, the Division shall:

(a) Allow for alternative subjects, instructors, schools and sources of programs, with consideration for specialized areas of practice, availability and proximity of resources to the licensees and applicants, and the time and expense required to participate in the programs.

(b) Approve courses offered by generally accredited educational institutions and private vocational schools if those courses otherwise qualify as continuing education.

(c) Approve training and educational programs and seminars offered by:

(1) Individual sponsors;

(2) Manufactured housing firms and businesses such as dealers, ***distributors,*** general servicemen, specialty servicemen, manufacturers ~~[of manufactured homes, mobile homes or commercial coaches,]~~ and suppliers of the various components for constructing such homes or coaches, including heating and air-conditioning systems, material for roofing and siding, skirting, awnings and other components;

(3) Professional and industry-related organizations; and

(4) Other organized educational programs concerning technical or specialized subjects, including in-house training programs offered by an employer for his employees and participation in meetings and conferences of industry-related organizations.

(d) Solicit advice and assistance from persons and organizations that are knowledgeable in the construction, sale, ***distribution,*** installation, rebuilding and servicing of manufactured homes, mobile homes ~~[or]~~ ***, manufactured buildings,*** commercial coaches ***or factory-built housing*** and the method of educating licensees.

3. The Division is not responsible for the costs of any continuing education program, but may participate in the funding of those programs subject to legislative appropriations.

4. As used in this section, "industry-related organizations" includes, without limitation, the:

(a) Manufactured Housing Institute;

(b) Manufactured Home Community Owners ***;*** ~~[Association;]~~

(c) Nevada Association of Manufactured Home Owners, Inc.;

(d) Nevada Association of Realtors; ~~[and]~~

(e) ***Nevada Housing Alliance;***

(f) Modular Building Institute; and

(g) Any other organization approved by the Division.

Sec. 29. NRS 489.305 is hereby amended to read as follows:

489.305 To open a branch office, a dealer, ***distributor,*** general serviceman or specialty serviceman ~~[, as the case may be,]~~ must:

1. Obtain a license from the Division to operate the branch office; and

2. Provide for direct supervision of the branch office, either by himself or by employing a responsible managing employee.

Sec. 30. NRS 489.311 is hereby amended to read as follows:

489.311 1. Except as otherwise provided by NRS 489.331, no person may engage or offer to engage in the business of a dealer, ***distributor,*** manufacturer, general serviceman or specialty serviceman in this State, or be entitled to any other license or permit required by this chapter, until he has applied for and has been issued a license by the Division.

2. For the purposes of this section, a person engages in the business of a dealer, ***distributor,*** manufacturer, general serviceman or specialty serviceman in this State if he, without limitation, submits a bid to perform any activity requiring a license pursuant to this section.

Sec. 31. NRS 489.321 is hereby amended to read as follows:

489.321 1. An application for a manufacturer's, dealer's, ***distributor's,*** general serviceman's or specialty serviceman's license must be filed upon forms supplied by the Division and include the social security number of the applicant. The applicant must furnish:

(a) Any proof the Division may deem necessary that the applicant is a manufacturer, dealer, ***distributor,*** general serviceman or specialty serviceman.

(b) Any proof the Division may require that the applicant has an established place of business.

(c) Any proof the Division may require of the applicant's good character and reputation and of his fitness to engage in the activities for which the license is sought.

(d) A complete set of his fingerprints and written permission authorizing the Administrator to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Administrator may exchange with the Central Repository and the Federal Bureau of Investigation any information relating to the fingerprints of an applicant under this section.

(e) In the case of a dealer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise dealer for the make or makes concerned.

(f) A reasonable fee fixed by regulation.

(g) In the case of a dealer ***, distributor*** or general serviceman, proof of passing the examination required under subsection 1 of NRS 489.351.

(h) In the case of a specialty serviceman, proof of passing the examination required under subsection 1 of NRS 489.351 or proof that the examination has been waived pursuant to subsection 2 of NRS 489.351.

(i) Any additional requirements the Division may from time to time prescribe by regulation.

2. Within 60 days after the receipt of a complete application, the Division shall issue or deny the license.

3. The Administrator may issue a provisional license pending receipt of the report from the Federal Bureau of Investigation. Upon receipt of the report and a determination by the Administrator that the applicant is qualified, the Division shall issue to the applicant a dealer's, manufacturer's, ***distributor's,*** general serviceman's or specialty serviceman's license containing the applicant's name and the address of his fixed place of business.

4. Each license is valid for a period of 2 years after the date of issuance and may be renewed for like consecutive periods upon application to and approval by the Division.

Sec. 32. NRS 489.321 is hereby amended to read as follows:

489.321 1. Applications for a manufacturer's, dealer's, ***distributor's,*** general serviceman's or specialty serviceman's license must be filed upon forms supplied by the Division, and the applicant shall furnish:

(a) Any proof the Division may deem necessary that the applicant is a manufacturer, dealer, ***distributor,*** general serviceman or specialty serviceman.

(b) Any proof the Division may require that the applicant has an established place of business.

(c) Any proof the Division may require of the applicant's good character and reputation and of his fitness to engage in the activities for which the license is sought.

(d) A complete set of his fingerprints and written permission authorizing the Administrator to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Administrator may exchange with the Central Repository and the Federal Bureau of Investigation any information respecting the fingerprints of an applicant under this section.

(e) In the case of a dealer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise dealer for the make or makes concerned.

(f) A reasonable fee fixed by regulation.

(g) In the case of a dealer ***, distributor*** or general serviceman, proof of passing the examination required under subsection 1 of NRS 489.351.

(h) In the case of a specialty serviceman, proof of passing the examination required under subsection 1 of NRS 489.351 or proof that the examination has been waived pursuant to subsection 2 of NRS 489.351.

(i) Any additional requirements the Division may from time to time prescribe by regulation.

2. Within 60 days after receipt of a complete application, the Division shall issue or deny the license.

3. The Administrator may issue a provisional license pending receipt of the report from the Federal Bureau of Investigation. Upon receipt of the report and a determination by the Administrator that the applicant is qualified, the Division shall issue to the applicant a dealer's, manufacturer's, ***distributor's,*** general serviceman's or specialty serviceman's license certificate containing the applicant's name and the address of his fixed place of business.

4. Each license is valid for a period of 2 years after the date of issuance and may be renewed for like consecutive periods upon application to and approval by the Division.

Sec. 33. NRS 489.323 is hereby amended to read as follows:

489.323 If a licensee is a ***dealer, distributor,*** general serviceman ***,*** ~~[or]~~ specialty serviceman ***,*** ~~[of manufactured homes, mobile homes or commercial coaches, or a]~~ responsible managing employee or salesman, the Division shall not renew a license issued to that licensee until the licensee has submitted proof satisfactory to the Division that he has, during the 2-year period immediately preceding the renewal of the license, completed at least 8 hours of continuing education approved by the Division pursuant to NRS 489.285.

Sec. 34. NRS 489.336 is hereby amended to read as follows:

489.336 1. The Division shall adopt regulations for the issuance of limited ***lien*** resale licenses ***and permits*** authorizing a landlord or manager to sell a used mobile home ~~[. Regulations adopted pursuant to this section]~~ ***if:***

(a) The mobile home is located in a mobile home park that the landlord or manager owns, leases or manages; and

(b) The landlord or manager purchased the mobile home at a sale to enforce a lien pursuant to NRS 108.270 to 108.367, inclusive.

2. The regulations must specify the requirements for ~~[licensure,]~~ ***the issuance of a license or permit,*** including, without limitation, any educational requirements.

~~[2.]~~ ***3.*** A person who is ~~[licensed]~~ ***issued a license or permit*** pursuant to the regulations ~~[described in subsection 1]~~ may sell a used mobile home ~~[if:~~

~~(a) The mobile home is located in a mobile home park that the landlord or manager owns, leases or manages; and~~

~~(b) The landlord or manager purchased the mobile home at a sale to enforce a lien pursuant to NRS 108.270 to 108.367, inclusive.~~

~~3.]~~ ***in accordance with the license or permit.***

4. As used in this section:

(a) "Landlord" has the meaning ascribed to it in NRS 118B.014.

(b) "Manager" has the meaning ascribed to it in NRS 118B.0145.

(c) "Mobile home park" has the meaning ascribed to "manufactured home park" in NRS 118B.017.

Sec. 35. NRS 489.341 is hereby amended to read as follows:

489.341 1. A person shall not act as a salesman in this State or as a responsible managing employee for a person who sells, leases, ***distributes,*** reconstructs, improves, repairs or installs any manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** subject to the provisions of this chapter without first having received a license from the Division. Before issuing such a license, the Division shall require:

(a) An application, signed and verified by the applicant, stating that he desires to act as a salesman or responsible managing employee and providing his residential address, his social security number and the name and address of his employer.

(b) Proof of the employment of the applicant at the time the application is filed. An applicant for a license as a responsible managing employee shall submit proof of 2 years' experience within the previous 4 years in the business in which the applicant is seeking to be licensed as a responsible managing employee.

(c) Proof of the applicant's good character and reputation and of his fitness to act as a salesman or responsible managing employee.

(d) A complete set of his fingerprints and written permission authorizing the Administrator to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Administrator may exchange with the Central Repository and the Federal Bureau of Investigation any information relating to the fingerprints of an applicant.

(e) A statement as to whether any previous application of the applicant has been denied or license revoked.

(f) Payment of a reasonable license fee established by regulation.

(g) The applicant to have passed the examination required by NRS 489.351.

(h) Any other information the Division deems necessary.

2. Within 60 days after the receipt of a complete application, the Division shall issue or deny the license.

3. The Administrator may issue a provisional license pending receipt of the report from the Federal Bureau of Investigation. Upon receipt of the report and a determination by the Administrator that the applicant is qualified, the Administrator shall issue to the applicant a license as a salesman or a responsible managing employee. The license must contain the licensee's name and the address of his employer's place of business.

4. Each license is valid for 2 years after the date of issuance and may be renewed for like consecutive periods upon application to and approval by the Division.

5. A person licensed pursuant to this section shall not engage in sales activity other than for the account of, or for and in behalf of, a single employer who is a licensed dealer ~~[.]~~ ***or distributor.***

6. A license issued pursuant to this section may be transferred to another licensed employer upon application and the payment of a transfer fee of $10. When a salesman or responsible managing employee holding a current license leaves the employment of one dealer, ***distributor,*** general serviceman or specialty serviceman for that of another, the new employer may employ the salesman or responsible managing employee pending the transfer of the license if the transfer is completed within 10 days.

7. A license issued pursuant to this section must be posted in a conspicuous place on the premises of the employer for whom the holder of the license is licensed.

8. If a salesman or responsible managing employee ceases to be employed by a licensed dealer, ***distributor,*** general serviceman or specialty

serviceman, his license to act as a salesman or responsible managing employee is automatically suspended and his right to act in that capacity immediately ceases, and he shall not engage in such an activity until reemployed by a licensed dealer, ***distributor,*** general serviceman or specialty serviceman. Every licensed salesman and responsible managing employee shall report in writing to the Division every change in his place of employment or termination of employment within 5 days after the date of making the change.

Sec. 36. NRS 489.341 is hereby amended to read as follows:

489.341 1. A person shall not act as a salesman in this State or as a responsible managing employee for a person who sells, leases, ***distributes,*** reconstructs, improves, repairs or installs any manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** subject to the provisions of this chapter without first having received a license from the Division. Before issuing such a license, the Division shall require:

(a) An application, signed and verified by the applicant, stating that he desires to act as a salesman or responsible managing employee and providing his residential address and the name and address of his employer.

(b) Proof of the employment of the applicant at the time the application is filed. An applicant for a license as a responsible managing employee shall submit proof of 2 years' experience within the previous 4 years in the business in which the applicant is seeking to be licensed as a responsible managing employee.

(c) Proof of the applicant's good character and reputation and of his fitness to act as a salesman or responsible managing employee.

(d) A complete set of his fingerprints and written permission authorizing the Administrator to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. The Administrator may exchange with the Central Repository and the Federal Bureau of Investigation any information respecting the fingerprints of an applicant.

(e) A statement as to whether any previous application of the applicant has been denied or license revoked.

(f) Payment of a reasonable license fee established by regulation.

(g) The applicant to have passed the examination required by NRS 489.351.

(h) Any other information the Division deems necessary.

2. Within 60 days after receipt of a complete application, the Division shall issue or deny the license.

3. The Administrator may issue a provisional license pending receipt of the report from the Federal Bureau of Investigation. Upon receipt of the report and a determination by the Administrator that the applicant is qualified, the Administrator shall issue to the applicant a license as a

salesman or a responsible managing employee. The license must contain the licensee's name and the address of his employer's place of business.

4. Each license is valid for 2 years after the date of issuance and may be renewed for like consecutive periods upon application to and approval by the Division.

5. A person licensed pursuant to this section shall not engage in sales activity other than for the account of or for and in behalf of a single employer who is a licensed dealer ~~[.]~~ ***or distributor.***

6. A license issued pursuant to this section may be transferred to another licensed employer upon application and the payment of a transfer fee of $10. When a salesman or responsible managing employee holding a current license leaves the employment of one dealer, ***distributor,*** general serviceman or specialty serviceman for that of another, the new employer may employ the salesman or responsible managing employee pending the transfer of the license if the transfer is completed within 10 days.

7. A license issued pursuant to this section must be posted in a conspicuous place on the premises of the employer for whom the holder of the license is licensed.

8. If a salesman or responsible managing employee ceases to be employed by a licensed dealer, ***distributor,*** general serviceman or specialty serviceman, his license to act as a salesman or responsible managing employee is automatically suspended and his right to act in that capacity immediately ceases, and he shall not engage in such an activity until reemployed by a licensed dealer, ***distributor,*** general serviceman or specialty serviceman. Every licensed salesman and responsible managing employee shall report in writing to the Division every change in his place of employment or termination of employment within 5 days after the date of making the change.

Sec. 37. NRS 489.342 is hereby amended to read as follows:

489.342 1. A natural person who applies for the issuance or renewal of a manufacturer's, dealer's, ***distributor's,*** general serviceman's, specialty serviceman's, salesman's or ***responsible*** managing employee's license 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 license; or

(b) A separate form prescribed by the Division.

3. A manufacturer's, dealer's, ***distributor's,*** general serviceman's, specialty serviceman's, salesman's or ***responsible*** managing employee's license may not be issued or renewed by the Division if the applicant is a natural person who:

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

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

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

Sec. 38. NRS 489.343 is hereby amended to read as follows:

489.343 1. Every partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company*** doing business as a manufacturer, dealer, ***distributor,*** general serviceman or specialty serviceman in this State shall designate one of its members, and every corporation doing business as a manufacturer, dealer, ***distributor,*** general serviceman or specialty serviceman in this State shall designate one of its officers, to submit an application for a manufacturer's, dealer's, ***distributor's,*** general serviceman's or specialty serviceman's license.

2. The Division shall issue a manufacturer's, dealer's, ***distributor's,*** general serviceman's or specialty serviceman's license to the member or officer on behalf of the corporation ***, company*** or partnership upon:

(a) The designated member or officer, in the case of a dealer, ***distributor,*** general serviceman or specialty serviceman, successfully passing the examination required pursuant to subsection 1 of NRS 489.351 unless, in the case of a specialty serviceman, the examination is waived pursuant to subsection 2 of NRS 489.351; and

(b) Compliance with all other requirements of law or any other additional requirements the Division may from time to time prescribe by regulation by the partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company,*** or corporation, as well as by the designated member or officer.

3. Upon receipt of the license, the designated member or officer is entitled to perform all the acts authorized by a license issued by the Division, except:

(a) That the license issued entitles the designated member or officer to act pursuant to the terms and conditions of the license issued by the Division only as officer or agent of the partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company,*** or corporation, and not on his own behalf; and

(b) That if the person designated by the partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company,*** or corporation:

(1) Is refused a license by the Division; or

(2) Ceases to be connected with the partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership, limited-liability company*** or corporation,

➥ the partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership, limited-liability company,*** or corporation may designate another person who shall make application and qualify as in the first instance.

Sec. 39. NRS 489.344 is hereby amended to read as follows:

489.344 Each member or officer of a partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership or limited-liability company,*** or ***a*** corporation who will perform or engage in any of the acts specified in NRS 489.076, 489.102, 489.115 or 489.147, ***or section 2 of this act,*** other than the member or officer designated for that purpose by the partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership, limited-liability company,*** or ***the*** corporation ***,*** in the manner provided in NRS 489.343, must apply for and take out a separate manufacturer's, dealer's, ***distributor's,*** general serviceman's or specialty serviceman's license in his own name. The license issued to any such member or officer of a partnership ***, company*** or corporation entitles the member or officer to act as a manufacturer, dealer, ***distributor,*** general serviceman or specialty serviceman only as an officer or agent of the partnership ***, limited partnership, limited-liability partnership, limited-liability limited partnership, limited-liability company,*** or corporation and not on his own behalf.

Sec. 40. NRS 489.351 is hereby amended to read as follows:

489.351 1. Except as otherwise provided in subsection 2, the Administrator shall require an oral or written examination of each applicant for a license as a dealer, ***distributor,*** responsible managing employee, salesman, general serviceman or specialty serviceman.

2. The Administrator may waive the examination required pursuant to subsection 1 for an applicant for a license as a specialty serviceman if:

(a) The applicant holds another valid license issued by this State; and

(b) The services performed by the applicant pursuant to that license are substantially similar to the services to be performed by the applicant as a specialty serviceman.

Sec. 41. 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.

2. Failure to include in any advertising the name of the licensed dealer, ***distributor,*** 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 ***, manufactured building*** or commercial coach ~~[.]~~ ***or factory-built housing.***

5. Failure to disclose to a person with whom the licensed dealer ***or distributor*** is dealing with regard to the sale, ***distribution,*** purchase or lease of a manufactured home any material facts, structural defects or other material information which the licensed dealer ***or distributor*** knew, or which by the exercise of reasonable care and diligence should have known, concerning the manufactured home or concerning the sale, ***distribution,*** 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 ***, manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing*** 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. 42. NRS 489.411 is hereby amended to read as follows:

489.411 The following grounds, among others, constitute grounds for disciplinary action under NRS 489.381:

1. Claiming, demanding or receiving a fee, compensation or commission under any exclusive agreement, authorizing or employing a licensee to sell, ***distribute,*** buy or exchange a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** for compensation or commission, where the agreement does not contain a definite specified date of final and complete termination, does not set forth the terms and conditions of the exclusive agreement or is not signed by both the licensee and the owner.

2. While the employee, agent or fiduciary of a licensee, soliciting, accepting or agreeing to accept any benefit, fee, commission or compensation

for the performance of any of the acts specified in this chapter from any person except the licensee with whom he is associated or employed.

3. Paying a commission or other compensation to any person or employing any person for performing the services of a person required to be licensed under this chapter who has not first secured his license pursuant to this chapter.

4. Commingling the money or other property of his principals with his own or converting the money of others to his own use.

5. Knowingly permitting a person whose license has been revoked or suspended or who does not hold a valid license to engage on behalf of the licensed dealer ***or distributor*** in acts that require a license.

6. In the case of a salesman, failing to give to the licensed dealer ***or distributor*** by whom the salesman is employed, as soon as practicable after receipt, a deposit or other money or consideration entrusted to him by a person dealing with the salesman as a representative of the licensed dealer ~~[.]~~ ***or distributor.***

7. Failing within a reasonable time to account for or to remit any money coming into his possession which belongs to others.

8. Failure or refusal by a licensee to pay or otherwise discharge any final judgment rendered and entered against him which arises out of the conduct of his business licensed under this chapter.

9. Acting in the dual capacity of agent and undisclosed principal in a transaction.

Sec. 43. NRS 489.416 is hereby amended to read as follows:

489.416 The following grounds, among others, constitute grounds for disciplinary action under NRS 489.381:

1. Workmanship which:

(a) Is not commensurate with standards of the trade in general;

(b) Is below standards adopted by the Division or the ***codes and*** standards ~~[determined by the edition of the Uniform Building Code, Uniform Plumbing Code or the National Electrical Code, respectively, in effect on July 1, 1983;]~~ ***adopted pursuant to this chapter and chapter 461 or NRS, and any regulations adopted pursuant thereto;*** or

(c) Endangers the life and safety of an occupant of a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[.]~~ ***or factory-built housing.***

2. Failure to honor any warranty or other guarantee given by a licensee for workmanship or material as a condition of securing a contract, or of selling, ***distributing,*** leasing, reconstructing, improving, repairing or installing any manufactured home, mobile home, ***manufactured building,*** commercial coach ***, factory-built housing*** or accessory structure.

3. Gross negligence or incompetence in performing an act for which a license is required pursuant to this chapter.

Sec. 44. NRS 489.423 is hereby amended to read as follows:

489.423 1. Upon a finding that a licensed dealer ***or distributor*** knew, or by the exercise of reasonable care and diligence should have known, of any unlawful act or violation of a provision of this chapter by a salesman, general serviceman ***,*** ~~[or]~~ specialty serviceman ***or any other person*** who is employed by or associated with the licensed dealer ~~[,]~~ ***or distributor,*** the Administrator may suspend or revoke the license of the licensed dealer ***or distributor*** and impose an administrative fine upon him of not more than $1,000.

2. Upon a finding that a licensed dealer ***or distributor*** failed to maintain adequate supervision of a salesman, general serviceman or specialty serviceman who, while employed by or associated with the licensed dealer ~~[,]~~ ***or distributor,*** committed any unlawful act or violated a provision of this chapter, the Administrator may suspend or revoke the license of a licensed dealer ***or distributor*** and impose an administrative fine upon him of not more than $1,000.

3. Upon a finding that a licensed general serviceman or specialty serviceman knew, or by the exercise of reasonable care and diligence should have known, of any unlawful act or violation of a provision of this chapter by any person who is employed by or associated with the licensed general serviceman or specialty serviceman, the Administrator may suspend or revoke the license of the licensed general serviceman or specialty serviceman and impose an administrative fine upon him of not more than $1,000.

Sec. 45. NRS 489.425 is hereby amended to read as follows:

489.425 1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a manufacturer's, dealer's, ***distributor's,*** general serviceman's, specialty serviceman's, salesman's or ***responsible*** managing employee's license, the Division shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Division receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a manufacturer's, dealer's, ***distributor's,*** general serviceman's, specialty serviceman's, salesman's or ***responsible*** managing employee's license that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 46. NRS 489.481 is hereby amended to read as follows:

489.481 The Division shall adopt regulations providing fees for:

1. Certificates of installation;
2. Labels of installation;
3. Certificates of compliance;
4. Labels of compliance;
5. Certificates of ownership;
6. Licenses of manufacturers, dealers, ***distributors,*** salesmen, responsible managing employees, general servicemen and specialty servicemen;
7. Licenses for branch offices; and
8. Any other services provided by the Division.

Sec. 47. NRS 489.4971 is hereby amended to read as follows:

489.4971 1. The Account for Education and Recovery Relating to Manufactured Housing is hereby created within the Fund for Manufactured Housing to satisfy the claims of purchasers of manufactured homes, mobile homes ~~[or]~~ ***, manufactured buildings,*** commercial coaches ***or factory-built housing*** against persons licensed pursuant to the provisions of this chapter. Any balance in the Account over $500,000 at the end of any fiscal year must be set aside and used by the Administrator for education relating to manufactured homes, mobile homes, travel trailers ~~[or]~~ ***, manufactured buildings,*** commercial coaches ~~[.]~~ ***or factory-built housing.***

2. Upon the issuance or renewal of the following licenses by the Division, the licensee must pay, in addition to the original or renewal license fee, a fee:

(a) For a dealer's ***, distributor's*** or manufacturer's original license, or for any original limited dealer's license ~~[,]~~ ***which authorizes a limited dealer to act as a repossessor or liquidator,*** of $1,000.

(b) For a dealer's ***, distributor's*** or manufacturer's renewal license, or a renewal of any limited dealer's license ~~[,]~~ ***which authorizes a limited dealer to act as a repossessor or liquidator,*** of $600.

(c) For an original or renewal license for:

(1) A general serviceman or specialty serviceman, of $150.

(2) A salesman, of $75.

(3) A responsible managing employee, of $100.

➥ Except as otherwise provided in NRS 489.265, fees collected pursuant to this section must be deposited in the State Treasury for credit to the Account.

3. A payment from the Account to satisfy the claim of a purchaser specified in subsection 1 against a person who is licensed pursuant to this chapter must be made only upon an appropriate court order that is issued in an action for fraud, misrepresentation or deceit relating to an act for which a license is required pursuant to this chapter.

4. If a purchaser specified in subsection 1 commences an action specified in subsection 3 against a person who is licensed pursuant to this chapter, the purchaser must serve a copy of the complaint upon the Administrator within 30 days after the action is commenced.

Sec. 48. NRS 489.4975 is hereby amended to read as follows:

489.4975 1. If a purchaser of a manufactured home, mobile home **,** ***manufactured building*** or commercial coach ***or factory-built housing*** obtains a final judgment in any court of competent jurisdiction against any licensee under this chapter in an action specified in subsection 3 of NRS 489.4971, the judgment creditor may, upon the termination of all proceedings, including appeals in connection with any judgment, file a verified petition in the court in which the judgment was entered for an order directing payment from the Account in the amount of actual damages included in the judgment and unpaid, but not more than $25,000 per judgment and the liability of the Account may not exceed $100,000 for any licensee.

2. A copy of the petition must be served upon the Administrator and an affidavit of service filed with the court. The petition and each copy of the petition served pursuant to this subsection must set forth the grounds which entitle the judgment creditor to recover from the Account and must include a copy of:

(a) The final judgment specified in subsection 1;

(b) The complaint upon which the final judgment was entered; and

(c) If assets are known to exist, the writ of execution that was returned unsatisfied.

3. The court shall act upon the petition within 30 days after service and, upon the hearing of the petition, the judgment creditor must show that:

(a) He is not the spouse of the judgment debtor, or the personal representative of that spouse.

(b) He has complied with all the requirements of NRS 489.4971 to 489.4989, inclusive.

(c) He has obtained a judgment of the kind described in subsection 1, stating the amount of the judgment and the amount owing on it at the date of the petition.

(d) A writ of execution has been issued upon the judgment and that no assets of the judgment debtor liable to be levied upon in satisfaction of the judgment could be found, or that the amount realized on the sale of any of them that were found under the execution was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due.

(e) He and the Division have made reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment.

(f) The petition has been filed not more than 1 year after the termination of all proceedings, including reviews and appeals, in connection with the judgment.

4. A person licensed pursuant to this chapter shall not recover from the Account for damages related to a transaction in which he acted in his capacity as a licensee.

Sec. 49. NRS 489.501 is hereby amended to read as follows:

489.501 1. When a new manufactured home, ***new*** mobile home ***, new manufactured building*** or ***new*** commercial coach ***or new factory-built housing*** is sold in this State by a dealer, he shall complete a ~~[~~dealer's~~]~~ report of sale. The ~~[~~dealer's~~]~~ report of sale must be in a form prescribed by the Division and include a description of the manufactured home, mobile home ~~[~~or~~]~~ ***, manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing,*** the name and address of the seller and the name and address of the buyer. If in connection with the sale a security interest is taken or retained by the seller or dealer to secure all or part of the purchase price, or a security interest is taken by a person who gives value to enable the buyer to acquire rights in the manufactured home, mobile home ~~[~~or~~]~~ ***, manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing,*** the name and address of the secured party or his assignee must be entered on the ~~[~~dealer's~~]~~ report of sale.

2. The dealer shall require the buyer to sign an acknowledgment of taxes, on a form prescribed by the Division, which includes a statement that a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** is taxable in the county in which it is located. A dealer who sells a new manufactured home, ***new*** mobile home ***, new manufactured building*** or ***new*** commercial coach ***or new factory-built housing*** shall deliver the buyer's copy of the acknowledgment of taxes to him at the time of sale and submit another copy within 30 days after the date of the sale to the county assessor of the county in which the manufactured home, mobile home ~~[~~or~~]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** will be located.

3. The dealer shall submit the original of the ~~[~~dealer's~~]~~ report of sale and the manufacturer's certificate or statement of origin to the Division within 30 days after the execution of all instruments which the contract of sale required to be executed at the time of sale or within 30 days after the date of sale, whichever is later, unless an extension of time is granted by the Division.

4. A dealer who sells a new manufactured home, ***new*** mobile home ***, new manufactured building*** or ***new*** commercial coach ***or new factory-built housing*** shall deliver the buyer's copy of the report of sale to him at the time of sale and submit another copy within 30 days after the date of the sale to the county assessor of the county in which the manufactured home, mobile home ~~[~~or~~]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** will be located.

Sec. 50. NRS 489.511 is hereby amended to read as follows:

489.511 1. If a used or rebuilt manufactured home, mobile home ***, manufactured building*** or commercial coach ***or used or rebuilt factory-built housing*** is sold in this State by a dealer, the dealer shall complete a dealer's report of sale. The report must be in a form prescribed by the Division and include a description of the manufactured home, mobile home ~~[~~or~~]~~ ***, manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing,*** the name and address of the seller and the name and address of the buyer. If a security interest exists at the time of the sale, or if in connection with the sale

a security interest is taken or retained by the seller or dealer to secure all or part of the purchase price, or a security interest is taken by a person who gives value to enable the buyer to acquire rights in the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing,*** the name and address of the secured party must be entered on the dealer's report of sale.

2. The dealer shall submit the original of the dealer's report of sale to the Division within 45 days after the execution of all instruments which the contract of sale requires to be executed at the time of the sale, unless an extension of time is granted by the Division, together with the endorsed certificate of title or certificate of ownership previously issued. The dealer shall furnish one copy of the report of sale to the buyer at the time of the sale. Within 45 days after the sale, the dealer shall furnish one copy of the report of sale to the assessor of the county in which the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** will be located.

3. The dealer shall require the buyer to sign an acknowledgment of taxes, on a form prescribed by the Division, which includes a statement that the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** is taxable in the county in which it is located. The dealer shall deliver the buyer's copy of the acknowledgment to him at the time of sale and submit another copy to the county assessor of the county in which the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** is to be located.

4. If a used or rebuilt manufactured home, mobile home ***, manufactured building*** or commercial coach ***or used or rebuilt factory-built housing*** is sold by a dealer pursuant to an installment contract or other agreement by which the certificate of title or certificate of ownership does not pass immediately from the seller to the buyer upon the sale, the dealer shall submit to the Division any information required by the regulations adopted by the Administrator pursuant to NRS 489.272.

Sec. 51. NRS 489.521 is hereby amended to read as follows:

489.521 1. If a used or rebuilt manufactured home, mobile home ***, manufactured building*** or commercial coach ***or used or rebuilt factory-built housing*** is sold in this State by a person who is not a dealer, the seller or buyer, or both, shall submit to the Division, and a copy to the county assessor of the county in which the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** is located, within 45 days after the sale:

(a) If a certificate of ownership has been issued in this State, that certificate properly endorsed.

(b) If a certificate of title or other document of title has been issued by a public authority of another state, territory or country:

(1) The certificate or document properly endorsed; and

(2) A statement showing, if not included on the endorsed certificate or document, the description of the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing,*** the names and addresses of the buyer and seller, and the name and address of any person who takes or retains a purchase money security interest. The statement must be signed and acknowledged by the seller and buyer.

(c) If a document of title has not been issued by any public authority, a statement showing all the information and signed and acknowledged in the manner required by subparagraph (2) of paragraph (b) of subsection 1.

2. If a used or rebuilt manufactured home, mobile home ***, manufactured building*** or commercial coach ***or used or rebuilt factory-built housing*** is sold by a person who is not a dealer pursuant to an installment contract or other agreement by which the certificate of title or certificate of ownership does not pass immediately from the seller to the buyer upon the sale, the seller or buyer, or both, shall submit to the Division any information required by the regulations adopted by the Administrator pursuant to NRS 489.272.

Sec. 52. NRS 489.541 is hereby amended to read as follows:

489.541 1. Except as otherwise provided in ~~[subsection 4,]~~ ***subsections 4 and 5,*** upon receipt of the documents required by the Division, the Division shall issue a certificate of ownership.

2. If no security interest is created or exists in connection with the sale, the certificate of ownership must be issued to the buyer.

3. If a security interest is created by the sale, the certificate of ownership must be issued to the secured party or his assignee, and must show the name of the registered owner.

4. The Division shall not issue a certificate of ownership for a mobile home that has been determined to be substandard until the conditions that rendered the mobile home substandard are abated.

5. The Division shall not issue a certificate of title or certificate of ownership for factory-built housing that constitutes real property pursuant to subsection 4 of NRS 361.244.

Sec. 53. (Deleted by amendment.)

Sec. 54. (Deleted by amendment.)

Sec. 55. NRS 489.7154 is hereby amended to read as follows:

489.7154 1. Except as otherwise provided in subsection 2, a dealer shall not obtain or attempt to obtain the signature of a buyer on a contract for the sale or exchange of an interest in a mobile home, manufactured home ***, manufactured building*** or commercial coach ***or factory-built housing*** if any of the essential provisions of the contract are not set forth in the contract.

2. The dealer may insert:

(a) The identification number or identifying marks of a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing;*** and

(b) The date the first installment payment for the sale or exchange is due from the buyer,

➥ into the blank spaces of a contract after the contract has been signed by a buyer if the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** was not delivered to the buyer on the date the contract was executed.

3. The Administrator shall prescribe, by regulation, the essential provisions of a contract.

Sec. 56. NRS 489.7156 is hereby amended to read as follows:

489.7156 A brokerage agreement that includes a provision that grants a dealer the exclusive right to assist, solicit or negotiate the sale or exchange of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** on behalf of a client is enforceable if the agreement:

1. Is in writing;

2. Sets forth the date the brokerage agreement expires;

3. Does not require the client to perform any act concerning the brokerage agreement after the agreement expires; and

4. Is signed by the client or his representative and the dealer or his representative.

Sec. 57. NRS 489.7158 is hereby amended to read as follows:

489.7158 1. A dealer who has entered into a brokerage agreement with a client for the sale or exchange of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** shall:

(a) Seek the price and terms for the sale or exchange that are set forth in the brokerage agreement or are approved by the client;

(b) Present all offers made to or by the client as soon as practicable;

(c) Disclose to the client all the material facts known by him concerning the sale or exchange;

(d) Advise the client to obtain advice from an expert concerning any matters that are beyond the knowledge or expertise of the dealer;

(e) As soon as practicable, account for all money and property he receives in which the client may have a financial interest; and

(f) As soon as practicable, deliver to each party a copy of the executed contract for the sale or exchange.

2. A dealer shall not enter into a brokerage agreement with a client for the sale or exchange of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** unless the dealer has determined that the client will be able to deliver good title upon the execution of the sale or exchange of the interest in the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[.]~~ ***or factory-built housing.***

Sec. 58. (Deleted by amendment.)

Sec. 59. NRS 489.717 is hereby amended to read as follows:

489.717 1. A dealer shall not require a person to obtain a loan or financing from him or any other person as a condition to the purchase, sale or

exchange of a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[.]~~ ***or factory-built housing.***

2. A dealer shall disclose the substance of subsection 1 to each person with whom it agrees to purchase, sell or exchange a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[.]~~ ***or factory-built housing.*** The Division may adopt regulations concerning the form and manner of the disclosure.

Sec. 60. NRS 489.723 is hereby amended to read as follows:

489.723 1. Any money that a dealer receives from a client or other person concerning the sale or exchange of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** must be accounted for by the dealer when:

(a) The sale or exchange of the interest in the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** is executed; or

(b) The contract for the sale or exchange of the interest in the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** is rescinded by the dealer, client or any other person,

➥ whichever occurs earlier.

2. The dealer shall:

(a) Prepare or cause to be prepared a written itemized statement concerning each expenditure or deduction of money made by the dealer;

(b) Deliver or cause to be delivered to each person from whom the dealer received money a copy of the written itemized statement; and

(c) Maintain a copy of the written itemized statement at his place of business.

3. Except as otherwise provided in a brokerage agreement or an escrow agreement signed by the parties to a sale or exchange of an interest in a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** and the escrow agent or escrow officer licensed pursuant to the provisions of chapter 645A or 692A of NRS, no money concerning that sale or exchange held by a dealer may be distributed until:

(a) An application for:

(1) A certificate of ownership for the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing;*** or

(2) A certificate of title or certificate of ownership that does not pass immediately upon the sale or transfer of the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing,***

➥ has been submitted to the Division;

(b) Each person who has a financial interest in the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-***

built housing has executed a document that releases or waives his interest; and

(c) Each party to the sale or exchange has complied with the requirements for the sale or exchange that are set forth in the regulations adopted pursuant to the provisions of this chapter.

Sec. 61. NRS 489.724 is hereby amended to read as follows:

489.724 1. All down payments, deposits of earnest money, proceeds of loans or other money which a dealer receives ~~[,]~~ on behalf of his principal or any other person ~~[,]~~ must be deposited in ***:*** ~~[a]~~

(a) An escrow account maintained by an escrow agent or escrow officer licensed pursuant to chapter 645A or 692A of NRS; or

(b) A separate checking account, which must be designated a trust account, in a financial institution in this State whose deposits are insured by an agency of the Federal Government or by a private insurer approved pursuant to NRS 678.755.

2. Every dealer required to maintain a separate or trust account shall keep records of all money deposited therein. The records must clearly indicate the date and from whom he received money, the date deposited, the dates of withdrawals ~~[,]~~ and other pertinent information concerning the transaction, and must show clearly for whose account the money is deposited and to whom the money belongs. All such records and money are subject to inspection and audit by the Division and its authorized representatives ~~[.]~~ ***pursuant to section 12 of this act.*** All such separate trust accounts must designate the dealer as trustee and provide for the withdrawal of money without previous notice. ***The dealer shall balance each separate trust account at least monthly. The dealer shall provide to the Division, on a form provided by the Division, an annual accounting which shows an annual reconciliation of each separate trust account.***

3. All money deposited in a separate trust account from down payments, deposits of earnest money, proceeds of loans or other money received by a dealer from a person pursuant to a written contract signed by the dealer and that person must not be withdrawn from the account except to pay specific expenses as authorized by the written contract. ***The dealer is personally responsible and liable for such money at all times. A dealer shall not permit any advance payment of money belonging to another person to be deposited in the dealer's business or personal account or to be commingled with any money he has on deposit.***

4. Each dealer shall notify the Division of the names of the financial institutions in which he maintains trust accounts and specify the names of the accounts on forms provided by the Division.

Sec. 62. NRS 489.729 is hereby amended to read as follows:

489.729 If a licensed dealer takes a mobile home, manufactured home ***, manufactured building*** or commercial coach ***or factory-built housing*** in trade on the purchase of another such home ***, building*** or coach and there is an outstanding security interest, the licensed dealer shall satisfy the

outstanding security interest within 30 days after the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** is taken in trade on the purchase of the other home ***, building*** or coach.

Sec. 63. NRS 489.741 is hereby amended to read as follows:

489.741 No right of action exists in favor of any person by reason of any action or failure to act on the part of the Division or any of its officers or employees in carrying out the provisions of this chapter, or in giving or failing to give any information concerning the legal ownership of a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** or the existence of a security interest in it.

Sec. 64. NRS 489.751 is hereby amended to read as follows:

489.751 1. Unless otherwise specifically waived in writing by the buyer, for each sale ~~[of a manufactured home, mobile home or commercial coach]~~ in which the dealer is the seller or an agent of the seller, there is an implied warranty by the dealer that all the essential systems are in working order upon the execution of the sale. For the purposes of this subsection, the words "as is" or any similar words do not constitute a waiver of the implied warranty unless the words specifically refer to a specific component of an essential system.

2. As used in this section, "essential system" means the heating, air-conditioning, electrical, plumbing and drainage systems of a manufactured home, mobile home ***, manufactured building*** or commercial coach ~~[.]~~ ***or factory-built housing.***

Sec. 65. NRS 489.772 is hereby amended to read as follows:

489.772 "Transferee" means any person who purchases, leases or ***otherwise*** takes possession ~~[in any other manner]~~ or attempts to purchase, lease or ***otherwise*** take possession ~~[in any other manner]~~ of a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** or any interest therein from a transferor.

Sec. 66. NRS 489.774 is hereby amended to read as follows:

489.774 "Transferor" means any person who:

1. Sells or leases or attempts to sell or lease a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** or any interest therein to a transferee; or

2. Transfers or attempts to transfer a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** or any interest therein to a transferee in any other manner.

Sec. 67. NRS 489.776 is hereby amended to read as follows:

489.776 1. Except as otherwise provided in this section and unless required to make a disclosure pursuant to NRS 40.770, if a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** is or has been the site of a crime that involves the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine, a transferor or his agent who has

actual knowledge of such information shall disclose the information to a transferee or his agent.

2. The disclosure described in subsection 1 is not required if:

(a) All materials and substances involving methamphetamine have been removed from or remediated on the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** by an entity certified or licensed to do so; or

(b) The manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** has been deemed safe for habitation by a governmental entity.

3. The disclosure described in subsection 1 is not required for any sale or other transfer or intended sale or other transfer of a manufactured home, mobile home ***, manufactured building*** or commercial coach ***or factory-built housing*** by a transferor:

(a) To any co-owner of the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing,*** the spouse of the transferor or a person related within the third degree of consanguinity to the transferor; or

(b) If the transferor is a dealer and this is the first sale or transfer of a new manufactured home, ***new*** mobile home ***, new manufactured building*** or ***new*** commercial coach ~~[.]~~ ***or new factory-built housing.***

4. The Division may adopt regulations to carry out the provisions of this section.

Sec. 68. NRS 489.778 is hereby amended to read as follows:

489.778 1. A transferor or his agent, or both, who violates any provision of NRS 489.776 may be held liable to the transferee in any action at law or in equity.

2. An agent of a transferee who has actual knowledge of any information required to be disclosed pursuant to NRS 489.776 may be held liable to the transferee in any action at law or in equity if he fails to disclose that information to the transferee.

3. If a transferor makes a disclosure pursuant to NRS 489.776, the transferee may:

(a) Rescind the agreement to purchase, lease or take possession of the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ~~[,]~~ ***or factory-built housing;***

(b) Make the agreement to purchase, lease or take possession of the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** contingent upon the repair of any damage to the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** that has been caused by the manufacturing of any material, compound, mixture or preparation which contains any quantity of methamphetamine; or

(c) Accept the manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** with the damage as disclosed by the transferor without further recourse.

4. The rights and remedies provided by this section are in addition to any other rights or remedies that may exist at law or in equity.

Sec. 69. NRS 489.811 is hereby amended to read as follows:

489.811 1. Except as otherwise provided in subsection 5, any person who violates any of the provisions of this chapter is liable to the State for a civil penalty of not more than $1,000 for each violation. Each violation of this chapter or any regulation or order issued under it constitutes a separate violation with respect to each manufactured home, mobile home ~~[or]~~ ***, manufactured building,*** commercial coach ***or factory-built housing*** and with respect to each failure or refusal to allow or perform an act required by this chapter or regulation or order, except that the maximum civil penalty is $1,000,000 for any related series of violations occurring within 1 year after the first violation.

2. Before the adoption of any regulation for whose violation a civil penalty may be imposed, the Administrator shall give at least 30 days' written notice to every licensed manufacturer, dealer, ***distributor,*** general serviceman and specialty serviceman, and every other interested party who has requested the notice.

3. An action to enforce a civil penalty must be brought in a court of competent jurisdiction in the county in which the defendant has his principal place of business.

4. All money collected as civil penalties pursuant to the provisions of this chapter must be deposited in the State General Fund.

5. This section does not apply to a manufacturer ***, distributor*** or dealer of travel trailers.

Sec. 70. NRS 489.821 is hereby amended to read as follows:

489.821 1. A person is guilty of a gross misdemeanor who knowingly:

(a) Makes any false entry on any certificate of origin or certificate of ownership.

(b) Furnishes false information to the Division concerning any security interest.

(c) Files with the Administrator any notice, statement or other document required under the provisions of this chapter which is false or contains any material misstatement of fact.

(d) Whether acting individually or as a director, officer or agent of a corporation, violates a provision of the National Manufactured Housing Construction and Safety Standards Act of 1974 ***,*** ~~[(]~~ 42 U.S.C. 5401 et seq. ~~[),]~~ ***, this chapter and chapter 461 of NRS, and any regulations adopted pursuant thereto,*** causing a condition which endangers the health or safety of a purchaser of a manufactured home.

2. A dealer is guilty of a gross misdemeanor who knowingly:

(a) Fails to maintain a trust account as required by NRS 489.724.

(b) Commingles the money or other property of a seller or purchaser of a manufactured home ***, manufactured building*** or ~~[a]~~ mobile home ***or factory-built housing*** with his own.

(c) Fails to cooperate or comply with or knowingly impedes or interferes with any investigation or audit conducted by the Division pursuant to section 12 of this act.

(d) Acts as a dealer while insolvent or engages in any financial practice which creates a substantial risk of insolvency.

3. Except as ***otherwise*** provided in ~~[subsections 1, 2 and 4 of]~~ this section, any person who knowingly or willfully violates any ~~[of the provisions]~~ ***provision*** of this chapter is guilty of a misdemeanor.

4. Subsection 3 does not apply to a manufacturer of travel trailers.

Sec. 71. NRS 108.355 is hereby amended to read as follows:

108.355 1. A person contesting the validity of a lien on a mobile home or manufactured home may file a notice of opposition to the lien in the justice court in whose jurisdiction the mobile home or manufactured home is located. The notice of opposition must be filed within 5 days after the person filing the notice receives the notice of sale by auction, must be made on a form provided by the clerk of the justice court and must include the facts supporting the notice. The person filing the notice shall serve certified copies of it upon the lien claimant and the Manufactured Housing Division of the Department of Business and Industry.

2. Upon the filing of the notice of opposition to the lien, the justice of the peace shall schedule a hearing on the notice, which must be held as soon as practicable but not sooner than 5 days after service of the notice. The justice of the peace shall affix the date of the hearing to the notice and order that a copy be served upon the lien claimant within 5 days after the date of the order.

3. The justice of the peace shall either dismiss the objections to the lien claim, declare the lien invalid or declare the amount of the lien if it is different from that described by the lien claimant.

4. After receipt of a notice of opposition to a lien or other notice pursuant to any proceeding to contest the validity of a lien, the Manufactured Housing Division of the Department of Business and Industry shall not transfer the title to the mobile home or manufactured home that is the subject of the lien until the matter has been adjudicated.

5. This section does not affect the rights of a secured party pursuant to chapter 104 of NRS.

Sec. 72. Chapter 118B of NRS is hereby amended by adding thereto the provisions set forth as sections 73 ~~[, 74 and]~~ **to** 75**, inclusive,** of this act.

Sec. 73. ***"Certified appraiser" means an appraiser who possesses the necessary qualifications pursuant to the provisions of this chapter.***

Sec. 74. ***To qualify as a certified appraiser, a person must*** ~~*[be a dealer licensed pursuant to chapter 489 of NRS and]*~~ ***possess a professional certification as an appraiser issued by:***

1. The National Society of Appraiser Specialists, including, without limitation, a Board Certified Manufactured Housing Valuation designation; or

2. Any other organization approved by the Division.

Sec. 74.5. A person who makes a determination of the fair market value of a manufactured home pursuant to the provisions of NRS 118B.130, 118B.177, 118B.180 or 118B.183 shall make such determination in compliance with the guidelines of:

1. The most current edition of the Manufactured Housing Cost Guide of the National Automobile Dealers Association; or

2. The Manufactured Housing National Appraisal System of the National Automobile Dealers Association.

Sec. 75. ***No right of action exists in favor of any person by reason of any action or failure to act on the part of the Division or any of its officers or employees in carrying out the provisions of this chapter.***

Sec. 76. NRS 118B.010 is hereby amended to read as follows:

118B.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 118B.011 to 118B.0195, inclusive, ***and section 73 of this act*** have the meanings ascribed to them in those sections.

Sec. 77. NRS 118B.120 is hereby amended to read as follows:

118B.120 1. The landlord or his agent or employee may:

(a) Require that the tenant landscape and maintain the tenant's lot if the landlord advises the tenant in writing of reasonable requirements for the landscaping.

(b) If the tenant does not comply with the provisions of paragraph (a), maintain the tenant's lot and charge the tenant a service fee for the actual cost of that maintenance.

(c) Require that the manufactured home be removed from the park if it is unoccupied for more than 90 consecutive days and the tenant or dealer is not making good faith and diligent efforts to sell it.

2. The landlord shall maintain, in the manner required for the other tenants, any lot on which is located a manufactured home within the park which has been repossessed, abandoned or held for rent or taxes. The landlord is entitled to reimbursement for the cost of that maintenance from the repossessor or lienholder or from the proceeds of any sale for taxes, as the case may be.

3. ***Before dismantling a manufactured home that was abandoned, the landlord or manager must:***

(a) Conduct a title search with the Division to determine the owner of record of the manufactured home. If the owner of record is not found, the landlord or manager may use the records of the county assessor for the county in which the manufactured home is located to determine the owner of the manufactured home.

(b) Send a certified letter notifying the owner and any lienholder of the intent of the landlord or manager to dismantle the manufactured home.

(c) If the owner does not respond within 30 days after the date of mailing the certified letter, submit to the Division an affidavit of dismantling.

4. The landlord shall trim all the trees located within the park and dispose of the trimmings from those trees absent a written voluntary assumption of that duty by the tenant for trees on the tenant's lot.

~~[4.]~~ ***5.*** For the purposes of this section, a manufactured home shall be deemed to be abandoned if:

(a) It is located on a lot in a manufactured home park, other than a cooperative park, for which no rent has been paid for at least 60 days;

(b) It is unoccupied; and

(c) The manager of the manufactured home park reasonably believes it to be abandoned.

Sec. 78. NRS 118B.130 is hereby amended to read as follows:

118B.130 1. A landlord may not change:

(a) An existing park to a park for older persons pursuant to federal law unless the tenants who do not meet those restrictions and may lawfully be evicted are moved to other parks at the expense of the landlord; or

(b) The restriction of a park for older persons pursuant to federal law unless the tenants are given the option of remaining in their spaces or moving to other parks at the expense of the landlord.

2. A tenant who elects to move pursuant to a provision of subsection 1 shall give the landlord notice in writing of his election to move within 75 days after receiving notice of the change in restrictions in the park.

3. At the time of providing notice of the change in restrictions in the park, the landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

4. If a landlord is required to move a tenant to another park pursuant to subsection 1, he shall pay:

(a) The cost of moving the tenant's manufactured home and its appurtenances to a new location in this State or another state within 100 miles from the manufactured home park; or

(b) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles, ➥ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.

5. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement

for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.

6. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home.

7. A landlord of a park in which restrictions have been or are being changed shall give written notice of the change to each:

(a) Tenant of the park who does not meet the new restrictions; and

(b) Prospective tenant before the commencement of the tenancy.

8. For the purposes of this section, the fair market value of a manufactured home ~~[and the reasonable cost of removing and disposing of a manufactured home]~~ must be determined ~~[by:]~~ ***as follows:***

(a) A dealer licensed pursuant to chapter 489 of NRS who is ~~[agreed upon]~~ ***a certified appraiser and who is selected jointly*** by the landlord ***or his agent*** and ***the*** tenant ~~[; or]~~ ***shall make the determination.***

(b) ~~[If the landlord and tenant cannot agree pursuant to]~~ ***If there are insufficient dealers licensed pursuant to chapter 489 of NRS who are certified appraisers available for the purposes of*** paragraph (a), ***a person who possesses the qualifications pursuant to the Appraiser Qualifications for Manufactured Homes Classified as Personal Property as set forth in section 8-3 of Valuation Analysis for Single Family One- to Four-Unit Dwellings, HUD Directive Number 4150.2 CHG-1, of the United States Department of Housing and Urban Development, and who is selected jointly by the landlord or his agent and the tenant shall make the determination.***

(c) If there are insufficient persons available for the purposes of paragraphs (a) and (b) or if the landlord or his agent and the tenant cannot agree pursuant to paragraphs (a) and (b), the landlord or his agent or the tenant may request the Administrator to, and the Administrator shall, appoint a dealer licensed pursuant to chapter 489 of NRS ***or a certified appraiser*** who ~~[is selected for this purpose by the Division]~~ ~~[.]~~ ***shall make the determination.***

9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the ~~[reasonable]~~ cost of removing and disposing of a manufactured home pursuant to subsection 6.

Sec. 79. NRS 118B.177 is hereby amended to read as follows:

118B.177 1. If a landlord closes a manufactured home park, or if a landlord is forced to close a manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park permanently for health or safety reasons, the landlord shall pay the amounts required by subsections 3, 4 and 5.

2. At the time of providing notice of the closure of the park, a landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

3. If the tenant chooses to move the manufactured home ~~[, the]~~ ***:***

(a) The tenant shall, within 75 days after receiving notice of the closure, notify the landlord in writing of the tenant's election to move the manufactured home; and

(b) The landlord shall pay to the tenant:

~~[(a)]~~ ***(1)*** The cost of moving each tenant's manufactured home and its appurtenances to a new location in this State or another state within 100 miles from the manufactured home park; or

~~[(b)]~~ ***(2)*** If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles,

➥ including fees for inspection, any deposits for connecting utilities ~~[,]~~ and the cost of taking down, moving, setting up and leveling the manufactured home and its appurtenances in the new lot or park.

4. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.

5. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home.

6. Written notice of any closure must be served timely on each:

(a) Tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot.

(b) Prospective tenant by:

(1) Handing each prospective tenant or his agent a copy of the written notice; and

(2) Maintaining a copy of the written notice at the entrance of the manufactured home park.

7. For the purposes of this section, the fair market value of a manufactured home ~~[and the reasonable cost of removing and disposing of a manufactured home]~~ must be determined ~~[by:]~~ ***as follows:***

(a) A dealer licensed pursuant to chapter 489 of NRS who is ~~[agreed upon]~~ ***a certified appraiser and who is selected jointly*** by the landlord ***or his agent*** and ***the*** tenant ~~[; or]~~ ***shall make the determination.***

(b) ~~[If the landlord and tenant cannot agree pursuant to]~~ ***If there are insufficient dealers licensed pursuant to chapter 489 of NRS who are certified appraisers for the purposes of*** paragraph (a), ***a person who possesses the qualifications pursuant to the Appraiser Qualifications for Manufactured Homes Classified as Personal Property as set forth in section 8-3 of Valuation Analysis for Single Family One- to Four-Unit Dwellings, HUD Directive Number 4150.2 CHG-1, of the United States Department of Housing and Urban Development, and who is selected jointly by the landlord or his agent and the tenant shall make the determination.***

(c) If there are insufficient persons available for the purposes of paragraphs (a) and (b) or if the landlord or his agent and the tenant cannot agree pursuant to paragraphs (a) and (b), the landlord or his agent or the tenant may request the Administrator to, and the Administrator shall, appoint a dealer licensed pursuant to chapter 489 of NRS ***or a certified appraiser*** who ~~[is selected for this purpose by the Division]~~ ~~[.]~~ ***shall make the determination.***

8. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the ~~[reasonable]~~ cost of removing and disposing of a manufactured home pursuant to subsection 5.

9. A landlord shall not increase the rent of a tenant after notice is served on the tenant as required by subsection 6.

10. If a landlord begins the process of closing a manufactured home park, he shall comply with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.

11. As used in this section, "timely" means not later than 3 days after the landlord learns of a closure.

Sec. 80. NRS 118B.180 is hereby amended to read as follows:

118B.180 1. A landlord may convert an existing manufactured home park into individual manufactured home lots for sale to manufactured home owners if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to the Division and each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord offers, in writing, to sell the lot to the tenant at the same price the lot will be offered to the public and holds that offer open for at least 90 days or until the landlord receives a written rejection of the offer from the tenant, whichever occurs earlier;

(c) The landlord does not sell the lot to a person other than the tenant for 90 days after the termination of the offer required pursuant to paragraph (b) at a price or on terms that are more favorable than the price or terms offered to the tenant;

(d) If a tenant does not exercise his option to purchase the lot pursuant to paragraph (b), the landlord pays:

(1) The cost of moving the tenant's manufactured home and its appurtenances to a comparable location in this State or another state within 100 miles from the manufactured home park; or

(2) If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles, ➥ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park;

(e) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, notice in writing is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot; and

(f) The landlord complies with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.

3. At the time of providing notice of the conversion of the park pursuant to this section, a landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

4. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.

5. If a tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home.

6. Notice sent pursuant to paragraph (a) of subsection 2 or an offer to sell a manufactured home lot to a tenant required pursuant to paragraph (b) of subsection 2 does not constitute notice of termination of the tenancy.

7. Upon the sale of a manufactured home lot and a manufactured home which is situated on that lot, the landlord shall indicate what portion of the purchase price is for the manufactured home lot and what portion is for the manufactured home.

8. For the purposes of this section, the fair market value of a manufactured home ~~[and the reasonable cost of removing and disposing of a manufactured home]~~ must be determined ~~[by:]~~ ***as follows:***

(a) A dealer licensed pursuant to chapter 489 of NRS who is ~~[agreed upon]~~ ***a certified appraiser and who is selected jointly*** by the landlord ***or his agent*** and ***the*** tenant ~~[; or]~~ ***shall make the determination.***

(b) ~~[If the landlord and tenant cannot agree pursuant to]~~ ***If there are insufficient dealers licensed pursuant to chapter 489 of NRS who are certified appraisers available for the purposes of*** paragraph (a), ***a person who possesses the qualifications pursuant to the Appraiser Qualifications for Manufactured Homes Classified as Personal Property as set forth in section 8-3 of Valuation Analysis for Single Family One- to Four-Unit Dwellings, HUD Directive Number 4150.2 CHG-1, of the United States Department of Housing and Urban Development, and who is selected jointly by the landlord or his agent and the tenant shall make the determination.***

(c) If there are insufficient persons available for the purposes of paragraphs (a) and (b) or if the landlord or his agent and the tenant cannot agree pursuant to paragraphs (a) and (b), the landlord or his agent or the tenant may request the Administrator to, and the Administrator shall, appoint a dealer licensed pursuant to chapter 489 of NRS ***or a certified appraiser*** who ~~[is selected for this purpose by the Division]~~ ~~[.]~~ ***shall make the determination.***

9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the ~~[reasonable]~~ cost of removing and disposing of a manufactured home pursuant to subsection 5.

10. The provisions of this section do not apply to a corporate cooperative park.

Sec. 81. NRS 118B.183 is hereby amended to read as follows:

118B.183 1. A landlord may convert an existing manufactured home park to any other use of the land if the change is approved by the appropriate local zoning board, planning commission or governing body. In addition to any other reasons, a landlord may apply for such approval if the landlord is forced to close the manufactured home park because of a valid order of a state or local governmental agency or court requiring the closure of the manufactured home park for health or safety reasons.

2. The landlord may undertake a conversion pursuant to this section only if:

(a) The landlord gives notice in writing to the Division and each tenant within 5 days after he files his application for the change in land use with the local zoning board, planning commission or governing body;

(b) The landlord pays the amounts required by subsections 4, 5 and 6;

(c) After the landlord is granted final approval of the change by the appropriate local zoning board, planning commission or governing body, written notice is served on each tenant in the manner provided in NRS 40.280, giving the tenant at least 180 days after the date of the notice before he is required to move his manufactured home from the lot; and

(d) The landlord complies with the provisions of NRS 118B.184 concerning the submission of a resident impact statement.

3. At the time of providing notice of the conversion of the park pursuant to this section, a landlord shall provide to each tenant:

(a) The address and telephone number of the Division;

(b) Any list published by the Division setting forth the names of licensed transporters of manufactured homes approved by the Division; and

(c) Any list published by the Division setting forth the names of mobile home parks within 100 miles that have reported having vacant spaces.

4. If the tenant chooses to move the manufactured home ~~[, the]~~ ***:***

(a) The tenant shall, within 75 days after receiving notice of the conversion, notify the landlord in writing of the tenant's election to move the manufactured home; and

(b) The landlord shall pay to the tenant:

~~[(a)]~~ ***(1)*** The cost of moving the tenant's manufactured home and its appurtenances to a new location in this State or another state within 100 miles from the manufactured home park; or

~~[(b)]~~ ***(2)*** If the new location is more than 100 miles from the manufactured home park, the cost of moving the manufactured home for the first 100 miles,

➥ including fees for inspection, any deposits for connecting utilities and the cost of taking down, moving, setting up and leveling his manufactured home and its appurtenances in the new lot or park.

5. If the landlord is unable to move a shed, due to its physical condition, that belongs to a tenant who has elected to have the landlord move his manufactured home, the landlord shall pay the tenant $250 as reimbursement for the shed. Each tenant may receive only one payment of $250 even if more than one shed is owned by the tenant.

6. If the tenant chooses not to move the manufactured home, the manufactured home cannot be moved without being structurally damaged or there is no manufactured home park within 100 miles that is willing to accept the manufactured home, the landlord:

(a) May remove and dispose of the manufactured home; and

(b) Shall pay to the tenant the fair market value of the manufactured home.

7. A landlord shall not increase the rent of any tenant:

(a) For 180 days before filing an application for a change in land use, permit or variance affecting the manufactured home park; or

(b) At any time after filing an application for a change in land use, permit or variance affecting the manufactured home park unless:

(1) The landlord withdraws the application or the appropriate local zoning board, planning commission or governing body denies the application; and

(2) The landlord continues to operate the manufactured home park after the withdrawal or denial.

8. For the purposes of this section, the fair market value of a manufactured home ~~[and the reasonable cost of removing and disposing of a manufactured home]~~ must be determined ~~[by:]~~ ***as follows:***

(a) A dealer licensed pursuant to chapter 489 of NRS who is ~~[agreed upon]~~ ***a certified appraiser and who is selected jointly*** by the landlord ***or his agent*** and ***the*** tenant ~~[; or]~~ ***shall make the determination.***

(b) ~~[If the landlord and tenant cannot agree pursuant to]~~ ***If there are insufficient dealers licensed pursuant to chapter 489 of NRS who are certified appraisers available for the purposes of*** paragraph (a), ***a person who possesses the qualifications pursuant to the Appraiser Qualifications for Manufactured Homes Classified as Personal Property as set forth in section 8-3 of Valuation Analysis for Single Family One- to Four-Unit Dwellings, HUD Directive Number 4150.2 CHG-1, of the United States Department of Housing and Urban Development, and who is selected jointly by the landlord or his agent and the tenant shall make the determination.***

(c) If there are insufficient persons available for the purposes of paragraphs (a) and (b) or if the landlord or his agent and the tenant cannot agree pursuant to paragraphs (a) and (b), the landlord or his agent or the tenant may request the Administrator to, and the Administrator shall, appoint a dealer licensed pursuant to chapter 489 of NRS ***or a certified appraiser*** who ~~[is selected for this purpose by the Division]~~ ~~[.]~~ ***shall make the determination.***

9. The landlord shall pay the costs associated with determining the fair market value of a manufactured home and the ~~[reasonable]~~ cost of removing and disposing of a manufactured home pursuant to subsection 6.

10. The provisions of this section do not apply to a corporate cooperative park.

Sec. 82. Chapter 461 of NRS is hereby amended by adding thereto a new section to read as follows:

No right of action exists in favor of any person by reason of any action or failure to act on the part of the Division or any of its officers or employees in carrying out the provisions of this chapter.

Sec. 82.5. NRS 461.132 is hereby amended to read as follows:

461.132 "Manufactured building" ~~[includes]~~ ***means*** any modular building or any building ***which is*** constructed ***in whole or in substantial part***

using ~~[one or more]~~ modular components, but does not include a recreational park trailer.

Sec. 83. NRS 624.3015 is hereby amended to read as follows:

624.3015 The following acts, among others, constitute cause for disciplinary action under NRS 624.300:

1. Acting in the capacity of a contractor beyond the scope of the license.

2. Bidding to contract or contracting for a sum for one construction contract or project in excess of the limit placed on the license by the Board.

3. Knowingly bidding to contract or entering into a contract with a contractor for work in excess of his limit or beyond the scope of his license.

4. Knowingly entering into a contract with a contractor while that contractor is not licensed.

5. Constructing or repairing a mobile home, manufactured home **,** ***manufactured building*** or commercial coach ~~[,]~~ ***or factory-built housing*** unless the contractor:

(a) Is licensed pursuant to NRS 489.311; or

(b) Owns, leases or rents the mobile home, manufactured home ~~[or]~~ **,** ***manufactured building,*** commercial coach ~~[.]~~ ***or factory-built housing.***

6. Engaging in any work or activities that require a contractor's license while the license is placed on inactive status pursuant to NRS 624.282.

Sec. 84. NRS 489.601 is hereby repealed.

Sec. 85. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTION

489.601 Special plates for movement of manufactured home, mobile home or commercial coach: Issuance; regulations; fees.

1. Except as otherwise provided in NRS 489.611, any manufacturer or dealer having an established place of business in this State, and owning or controlling any new or used manufactured home, mobile home or commercial coach, may move the manufactured home, mobile home or commercial coach for the purposes of display, maintenance, sale or exchange if there is displayed on it a special plate issued to the manufacturer or dealer as provided by this section.

2. Upon issuance of a manufacturer's or dealer's license pursuant to this chapter, the Division shall furnish to the licensee one or more special plates for use on manufactured homes, mobile homes and commercial coaches pursuant to subsection 1. Each plate must have displayed upon it the identification number which is assigned to the manufacturer or dealer and may, at the discretion of the Division, have a different letter or symbol on each plate. The plates may be used interchangeably on the manufactured homes, mobile homes or commercial coaches.

3. The Division shall, by regulation, determine the number of plates to which each manufacturer or dealer is entitled.

4. The Department shall supply the Division with the special plates.

5. There must be paid to the Division a fee of $12 at the time application for a special plate is made, and by the Division to the Department, a fee of $5.50 for each special plate.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 152.

Bill read second time.

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

Amendment No. 778.

AN ACT relating to energy; providing for the training of persons to perform jobs which promote energy efficiency; requiring governmental entities to perform certain functions to promote energy efficiency; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill provides for the use of the incentives contained in the recently signed federal American Recovery and Reinvestment Act of 2009 to provide job training, the promotion of energy efficiency and the promotion of the use of renewable energy in Nevada. **Sections 9 and 10** of this bill seek to take advantage of those incentives by providing specific training to persons in this State, establishing projects that will require the skills for which those persons are trained and providing for the employment of those persons. **Section 9** requires the Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry to establish contractual relationships with nonprofit collaboratives to provide training in the fields of energy efficiency and renewable energy, including training in the areas of weatherization, energy retrofit applications and performing energy audits. Within the limits of available money, the collaboratives will carry out programs for job training and provide apprenticeship programs in specific energy-related fields. Within the limits of money available, the Housing Division is required to contract with the nonprofit collaboratives, governmental entities, community action agencies and other nonprofit corporations to identify neighborhoods that will qualify for funding for residential weatherization projects and award contracts for projects to promote energy efficiency through residential weatherization. Such contracts awarded must provide for employing the persons trained by the nonprofit collaborative for this purpose, paying those employees prevailing wages and offering the employees and their dependents health care insurance.

Section 10 of this bill requires the State Public Works Board, the board of trustees of each school district and the Board of Regents of the University of Nevada, within 90 days after the effective date of this bill, to each establish projects to weatherize and retrofit public buildings, facilities and structures in this State, including without limitation, traffic-control systems, and to

otherwise use sources of renewable energy to serve those buildings, facilities and structures. **Section 10** further sets forth criteria for prioritizing those projects. Those entities are further required to enter into contracts for the projects as soon as practicable. Such contracts are required to provide that employees of the contractors and subcontractors on the project be paid prevailing wages, that the contractor or subcontractor employ a certain number of employees trained by a nonprofit cooperative and pay them prevailing wages and that the contractor offer employees on the project and their dependents health care insurance.

Section 11 of this bill provides that within the limits of money available, the State Public Works Board and the Division of State Parks of the State Department of Conservation and Natural Resources shall conduct studies to determine the feasibility of carrying out certain projects for providing alternative sources of energy in this State.

Section 12 of this bill requires the Labor Commissioner to adopt the job classifications and wage rates established by the Federal Government for certain jobs relating to residential weatherization and to enforce those job classifications and wage rates in the same manner that he enforces the labor laws and regulations of this State generally.

Section 13 of this bill requires the Office of Energy within the Office of the Governor, the Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry to report to the Interim Finance Committee concerning the application for and acceptance and expenditure of any money available to the State to carry out the purposes of this bill pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

WHEREAS, The unemployment rate in the State of Nevada is currently 9.1 percent and is expected to reach 11.4 percent sometime during 2009; and

WHEREAS, Many of Nevada's 128,000 unemployed residents have lost jobs in the construction and service sectors as the construction industry has faltered as a result of the mortgage foreclosure crisis and as the service industry, including gaming and tourism, has faltered as a result of the curtailment of discretionary spending on a national level; and

WHEREAS, One of the most effective methods of returning unemployed Nevadans to work is to create "green jobs" by developing new industries in this State in a manner that takes advantage of incentives offered by the Federal Government for job training, the promotion of energy efficiency and the promotion of the use of renewable energy; and

WHEREAS, An immediate step which may be taken to put Nevadans back to work is to coordinate job training with programs for weatherization and energy efficiency that are part of the recently enacted federal economic stimulus package; and

WHEREAS, In such a manner, unemployed Nevadans may learn new skills in fields such as energy auditing and the installation of energy efficient equipment and improvements, and then go to work performing such tasks as

weatherizing homes, retrofitting public buildings, helping lower-income Nevadans to save on their utility bills, and reducing energy costs for schools, government buildings and other public facilities; and

WHEREAS, The Green Jobs Initiative can be accomplished through a public-private partnership that combines the resources of state agencies, local housing authorities, institutions of higher education, joint labor-management partnerships, apprenticeship programs and private contractors under the "umbrella" of a nonprofit collaborative; and

WHEREAS, The Green Jobs Initiative would function to establish programs to provide job training and outreach for the weatherization and retrofitting of buildings and facilities in northern Nevada, southern Nevada and rural Nevada; now, therefore,

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

Section 1. Chapter 701B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. ***Sections 2 to 10, inclusive, of this act may be cited as the Green Jobs Initiative.***

Sec. 3. ***As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 8, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"Department" means the Department of Employment, Training and Rehabilitation.***

Sec. 5. ***"Division" means the Housing Division of the Department of Business and Industry.***

Sec. 6. ***1. "Renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:***

(a) Biomass;

(b) Fuel cells;

(c) Geothermal energy;

(d) Solar energy;

(e) Waste heat;

(f) Waterpower; and

(g) Wind.

2. The term does not include coal, natural gas, oil, propane or any other fossil fuel, or nuclear energy.

Sec. 7. ***"Retrofitting" means the alteration, improvement, modification, remodeling or renovation of a building, facility, residence or structure to make that building, facility, residence or structure more energy efficient.***

Sec. 8. ***"Weatherization" means materials or measures, and their installation, that are used to improve the thermal efficiency of a building, facility, residence or structure.***

Sec. 9. ***1. The Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry shall establish contractual relationships with one or more nonprofit collaboratives to carry out the State's mission of creating new jobs in the fields of energy efficiency and renewable energy by combining job training with weatherization, energy retrofit applications or the development of renewable energy plants.***

2. To qualify as a nonprofit collaborative for the purposes of this section ~~[:~~

~~*(a) A]*~~ **, *a nonprofit entity*** ~~*[must]*~~ **:**

(a) Must** enter into a written agreement relating to job training and career development activities with **: ~~*[one or more of the following:]*~~

(1) A labor management agency or other affiliated agency which has established an apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS; and

(2) A community college or another institution of higher education; ~~*[or*~~

~~*(3) A trade association which has an accredited job skills training program; and*~~

~~*(b) The nonprofit entity must)*~~ ***and***

***(b) Must** conduct or have the ability to conduct training programs in at least one of the three geographic regions of this State, including southern Nevada, northern Nevada and rural Nevada.*

➥ Such a nonprofit entity may also enter into a written agreement relating to job training and career development activities with a trade association which has an accredited job skills training program.

3. Within the limits of money available to the Department for this purpose, the Department shall contract with one or more qualified nonprofit collaboratives to:

(a) Carry out programs for job training in fields relating to energy efficiency and the use of renewable energy.

(b) In concert with a labor management agency or other affiliated agency which has established an apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS, develop apprenticeship programs to train laborers in skills related to:

(1) The implementation of energy efficiency measures.

(2) The use of renewable energy.

(3) Performing audits of the energy efficiency of buildings, facilities, residences and structures.

(4) The weatherization of buildings, facilities, residences and structures.

(5) The retrofitting of buildings, facilities, residences and structures.

(6) The construction and operation of centralized renewable energy plants.

(7) The manufacturing of components relating to work performed pursuant to subparagraphs (1) to (6), inclusive.

4. The job training described in subsection 3 must be sufficiently detailed to allow workers, as applicable, to perform:

(a) The services set forth in NRS 702.270.

(b) The services set forth in NRS 618.910 to 618.936, inclusive.

(c) Such other vocational or professional services, or both, as the Department deems appropriate.

5. Funding provided for the job training described in subsection 3:

(a) Must, to the extent money is available for the purpose, include the cost of tuition and supplies.

(b) May include a cost-of-living stipend which may or may not be in addition to any available unemployment compensation.

6. Within the limits of money available to the Division for the purpose, the Division shall contract with one or more governmental entities, community action agencies or nonprofit organizations, including, without limitation, qualified nonprofit collaboratives, to:

(a) Identify, in different regions of the State, neighborhoods that will qualify for funding for residential weatherization projects pursuant to federal programs focusing on residential weatherization; and

(b) Issue requests for proposals for contractors and award contracts for projects to promote energy efficiency through weatherization. Any such requests for proposals and contracts must include, without limitation:

(1) Provisions stipulating that all employees of the outside contractors who work on the project must be paid prevailing wages;

(2) Provisions requiring that each outside contractor ~~[employ]~~ :

(I) Employ on each such project a number of persons trained as described in paragraph (b) of subsection 3 that is equal to or greater than 50 percent of the total workforce the contractor employs on the project; or

(II) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor, that the contractor cannot reasonably comply with the provisions of sub-subparagraph (I) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor employs on the project;

(3) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(4) A component that requires each contractor to offer to employees working on the project, and to their dependents, health care in the same

manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

7. The Department and the Division:

(a) Shall apply for and accept any grant, appropriation, allocation or other money available pursuant to:

(1) The Green Jobs Act of 2007, 29 U.S.C. 2916(e); and

(2) The American Recovery and Reinvestment Act of 2009, Public Law 111-5; and

(b) May apply for and accept any other available gift, grant, appropriation or donation from any public or private source,

↪ to assist the Department and the Division in carrying out the provisions of this section.

8. The Department and the Division shall each report to the Interim Finance Committee at each meeting held by the Interim Finance Committee with respect to the activities in which they have engaged pursuant to this section.

9. As used in this section, "community action agencies" means private corporations or public agencies established pursuant to the Economic Opportunity Act of 1964, Public Law 88-452, which are authorized to administer money received from federal, state, local or private funding entities to assess, design, operate, finance and oversee antipoverty programs.

Sec. 10. ***1. The State Public Works Board shall, within 90 days after the effective date of this act, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and section 9 of this act. The projects must be prioritized and selected on the basis of the following criteria:***

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

2. The board of trustees of each school district shall, within 90 days after the effective date of this act, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and section 9 of this act. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

3. The Board of Regents of the University of Nevada shall, within 90 days after the effective date of this act, determine the specific projects to weatherize and retrofit public buildings, facilities and structures, including, without limitation, traffic-control systems, and to otherwise use sources of renewable energy to serve those buildings, facilities and structures pursuant to the provisions of this section and section 9 of this act. The projects must be prioritized and selected on the basis of the following criteria:

(a) The length of time necessary to commence the project.

(b) The number of workers estimated to be employed on the project.

(c) The effectiveness of the project in reducing energy consumption.

(d) The estimated cost of the project.

(e) Whether the project is able to be powered by or to otherwise use sources of renewable energy.

(f) Whether the project has qualified for participation in one or more of the following programs:

(1) The Solar Energy Systems Incentive Program created by NRS 701B.240;

(2) The Renewable Energy School Pilot Program created by NRS 701B.350;

(3) The Wind Energy Systems Demonstration Program created by NRS 701B.580;

(4) The Waterpower Energy Systems Demonstration Program created by NRS 701B.820; or

(5) An energy efficiency or energy conservation program offered by a public utility, as defined in NRS 704.020, pursuant to a plan approved by the Public Utilities Commission of Nevada pursuant to NRS 704.741.

4. As soon as practicable after an entity described in subsections 1, 2 and 3 selects a project, the entity shall proceed to enter into a contract with one or more contractors to perform the work on the project. The request for proposals and all contracts for each project must include, without limitation:

(a) Provisions stipulating that all employees of the contractors and subcontractors who work on the project must be paid prevailing wages pursuant to the requirements of chapter 338 of NRS;

(b) Provisions requiring that each contractor and subcontractor employed on each such project ~~[employ]~~ :

(1) Employ a number of persons trained as described in paragraph (b) of subsection 3 of section 9 of this act that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project; or

(2) If the Director of the Department determines in writing, pursuant to a request submitted by the contractor or subcontractor, that the contractor or subcontractor cannot reasonably comply with the provisions of subparagraph (1) because there are not available a sufficient number of such trained persons, employ a number of persons trained as described in paragraph (b) of subsection 3 of section 9 of this act or trained through any apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS that is equal to or greater than 50 percent of the total workforce the contractor or subcontractor employs on the project;

(c) A component pursuant to which persons trained as described in paragraph (b) of subsection 3 of section 9 of this act must be classified and paid prevailing wages depending upon the classification of the skill in which they are trained; and

(d) A component that requires each contractor or subcontractor to offer to employees working on the project, and to their dependents, health care

in the same manner as a policy of insurance pursuant to chapters 689A and 689B of NRS or the Employee Retirement Income Security Act of 1974.

5. The State Public Works Board, each of the school districts and the Board of Regents of the University of Nevada shall each provide a report to the Interim Finance Committee which describes the projects selected pursuant to this section and a report of the dates on which those projects are scheduled to be completed.

Sec. 11. Within limits of money available for the purpose:

1. The State Public Works Board shall conduct a study to determine the feasibility of using geothermal resources to provide heating to all or a portion of the Lovelock Correctional Center.

2. The Division of State Parks of the State Department of Conservation and Natural Resources shall conduct a study to determine the feasibility of:

(a) Constructing a hydroelectric generation unit at the existing dam on the South Fork Reservoir near Elko, Nevada.

(b) Constructing wind turbines in the vicinity of the South Fork Reservoir near Elko, Nevada.

Sec. 12. For the purposes of the State in carrying out the provisions of section 9 of this act governing residential weatherization in compliance with section 1606 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5, and notwithstanding any other provision of state law **: [,** ~~the Labor Commissioner shall:~~**]**

1. **[**~~On~~**]** **The Labor Commissioner shall, on** the effective date of this act, for each locality in this State for which the Labor Commissioner has not already established job classifications and wage rates pursuant to state law, adopt the job classifications and wage rates relating to residential weatherization established for that locality pursuant to the most current provisions of federal law or, if such job classifications and wage rates have not been established for that locality, the job classifications and wage rates for the closest locality, whether or not in Nevada, for which such job classifications and wage rates have been established, which are necessary to carry out the provisions of section 9 of this act; **[**~~and~~**]**

2. **[**~~Enforce~~**]** **The Labor Commissioner shall enforce** the job classifications and wage rates adopted pursuant to subsection 1 in the same manner as the Labor Commissioner is authorized to enforce the labor laws and regulations of this State generally **[**.**]** **; and**

3. The provisions of NRS 233B.040 to 233B.120, inclusive, do not apply to the adoption by the Labor Commissioner of the job classifications and wage rates required pursuant to subsection 1.

Sec. 13. The Office of Energy within the Office of the Governor, the Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry shall report to the Interim Finance Committee as required by the Committee concerning the application for and acceptance and expenditure of any money available to the

State to carry out the purposes of this act pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

Sec. 14. This act becomes effective upon passage and approval.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 176.

Bill read second time.

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

Amendment No. 779.

AN ACT relating to time shares; providing for the relocation of a time share under certain circumstances; authorizing the withdrawal of time share units from a time-share plan under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill provides that certain types of time shares may be relocated to another unit or parcel ~~[: (1) if the replacement unit or parcel is within the same project and governed by the same time share instrument as the original unit or parcel; (2) if the replacement unit or parcel has a value which is greater than or equal to the value of the original unit or parcel; (3) if the replacement unit or parcel contains similar sleeping accommodations for at least the same number of persons as the original unit or unit type within the parcel; (4) if the time share is not a fixed unit time share; and (5) if the time share is a fixed week time share or the rights of use are within a particular season, use in the same fixed week or season is available.]~~ **if certain conditions are satisfied.** **Section 1** only authorizes such relocation of a time share if: (1) the time share is owned by the developer; or (2) the relocation is approved by a majority of the association and agreed to by the developer.

Existing law provides that if a time-share instrument authorizes the developer to withdraw units from the time-share plan, any unit that is subject to withdrawal may not be withdrawn if a time share attributable to that unit is owned by a purchaser. (NRS 119A.495) **Section 2** of this bill allows units or parcels to be withdrawn from a time-share plan by the developer if all the requirements for such a withdrawal are met, including consent by any remaining owners, amendment of the time-share instrument to reflect the withdrawal, and the establishment or amendment of agreements between the developer and the association to share certain costs equitably.

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

Section 1. Chapter 119A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any time share that is an undivided fee simple interest or leasehold interest in a unit or parcel on which units are located, and any time share that is a license, may be relocated to another unit or parcel on which units are located:

(a) If the replacement unit or parcel:

(1) Is within the same project and governed by the same time-share instrument as the original unit or parcel;

(2) ~~[Has a value which is greater than or equal to the value of]~~ Provides the owner of the time share the opportunity to enjoy a substantially similar vacation experience as available with the original unit or parcel; and

(3) Contains similar sleeping accommodations for at least the same number of persons as the original unit or original unit type within the parcel;

(b) If there is to be no increase in the amount of the maintenance fees allocable to the time share to be relocated solely as the result of the relocation;

(c) If a one-to-one use night to use right ratio is to be maintained after the relocation;

(d) If the location and historical use of the time share to be relocated are considered in furthering the best interests of the owner with respect to the owner's opportunity to use and enjoy the time-share plan;

(e) If the time share is not a fixed-unit time share; and

~~[(e)]~~ (f) If the time share is a fixed-week time share or the rights of use for the time share are within a particular season of the year, if use of the time share in the same fixed week or season is available to the owner of the time share after the relocation.

2. Relocation of a time share pursuant to this section only applies to a time share that is owned by the developer, unless the relocation is:

(a) Approved by the vote or the written consent of members of the association, excluding the developer, constituting the minimum percentage of the voting power of the association which constitutes a quorum pursuant to NRS 82.291; and

(b) Agreed to in writing by the developer.

3. The relocation of each time share pursuant to this section must be made by the recordation of an instrument signed by the developer that identifies:

(a) The names of the record owners of each time share to be relocated;

(b) The permanent identifying number , if any, of each time share;

(c) A legal description of the unit or parcel and a description of the unit type ~~[to which each permanent identifying number was originally assigned;]~~ of each time share to be relocated; and

(d) A legal description of the unit or parcel and a description of the unit type to which each ~~[permanent identifying number]~~ time share will be reassigned.

4. Upon recordation of the instrument described in subsection 3 and the mailing of the recorded instrument to the owner by certified mail, return receipt requested, to the last known address of the owner as shown in the records of the association, the owner of the time share identified in the recorded instrument shall be deemed to have no further right, title or interest in the unit or parcel originally conveyed or assigned to the owner.

5. For the purposes of this section, in determining whether the replacement unit or parcel "provides the owner of the time share the opportunity to enjoy a substantially similar vacation experience as available with the original unit or parcel," the following factors must be considered with respect to the similarity of the replacement unit or parcel and the original unit or parcel:

(a) Size;

(b) Furnishings;

(c) Reservation rights;

(d) Standards of maintenance; and

(e) Location, including scenery, topography and geographic location.

6. As used in this section:

(a) "Fixed-unit time share" means a time share in which the owner's rights of use are in a single designated unit.

(b) "Fixed-week time share" means a time share in which the owner's rights of use are within a certain week or weeks on a recurrent, periodic basis, and the weeks of use may rotate based on a fixed-week calendar.

(c) "One-to-one use night to use right ratio" means that the sum of the number of nights that owners are entitled to use in a 12-month period does not exceed the number of nights available for use by those owners during that 12-month period. For the purposes of this paragraph:

(1) No individual time-share unit may be counted as providing more than 365 nights of use per 12-month period or more than 366 nights of use per 12-month period that includes February 29; and

(2) The rights of use of each owner must be counted without regard to whether that owner's rights of use have been suspended as the result of the failure to pay assessments or for any other reason.

Sec. 2. NRS 119A.495 is hereby amended to read as follows:

119A.495 ~~[If]~~

1. Except as otherwise provided in subsection 2, if a time-share instrument authorizes the developer to withdraw units from the time-share plan, any unit that is subject to withdrawal may not be withdrawn if a time share attributable to that unit is owned by a purchaser.

2. Any legally created units or parcels within a project may be withdrawn from the time-share plan by the developer if:

(a) All remaining owners having an interest in the unit or parcel, if there are any such remaining owners, give written consent to the withdrawal;

(b) The developer amends the time-share instrument which established the time-share plan to reduce the number of units or parcels included in the time-share plan by the number of units or parcels withdrawn pursuant to this subsection;

(c) Any existing cost-sharing agreement between the developer and the association covering shared common areas or amenities is amended to reflect the reduction in the number of units or parcels included in the time-share plan as the result of the withdrawal of units or parcels pursuant to this subsection; and

(d) A new cost-sharing agreement which covers any common areas or amenities that are shared by the remaining units or parcels within the time-share plan and the units or parcels withdrawn pursuant to this subsection and which allocates the shared costs proportionately between the developer and the association according to the number and size of the units withdrawn pursuant to this subsection is entered into between the developer and the association.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 184.

Bill read second time.

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

Amendment No. 718.

JOINT SPONSOR: ASSEMBLYMAN CHRISTENSEN

AN ACT relating to real estate; establishing provisions relating to broker's price opinions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill defines and specifies the minimum required contents of a broker's price opinion. This bill also sets forth the limitations on the use of a broker's price opinion and the circumstances under which a licensee may provide a broker's price opinion and collect a fee for preparing and providing that broker's price opinion. **This bill further establishes requirements governing a broker's price opinion which is submitted electronically or on a form supplied by the requesting party.**

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

Section 1. Chapter 645 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person licensed pursuant to this chapter may prepare and provide a broker's price opinion and charge and collect a fee therefor if:

(a) The license of that licensee is active and in good standing; and

(b) The broker's price opinion meets the requirements of subsection ~~[2.]~~ 3.

2. A person licensed pursuant to this chapter may prepare a broker's price opinion for:

(a) An existing or potential seller for the purposes of listing and selling a parcel of real property;

(b) An existing or potential buyer of a parcel of real property;

(c) A third party making decisions or performing due diligence related to the potential listing, offering, sale, exchange, option, lease or acquisition price of a parcel of real property; or

(d) An existing or potential lienholder, except that a broker's price opinion prepared for an existing or potential lienholder may not be used in lieu of an appraisal for the purpose of determining whether to approve a mortgage loan.

3. A broker's price opinion must include, without limitation:

(a) A statement of the intended purpose of the broker's price opinion;

(b) A brief description of the real property and the interest in the real property for which the broker's price opinion is being prepared;

(c) The basis used to determine the broker's price opinion, including, without limitation, any applicable market data and the computation of capitalization;

(d) Any assumptions or limiting conditions used to determine the broker's price opinion;

(e) The date of issuance of the broker's price opinion;

(f) A disclosure of any existing or contemplated interest of every licensee who prepares or provides the broker's price opinion, including, without limitation, the possibility of a licensee representing the seller or purchaser;

~~[(f)]~~ (g) The license number, name and signature of every licensee who prepares or provides the broker's price opinion;

~~[(g)]~~ (h) If a licensee who prepares or provides the broker's price opinion is a real estate salesman or a real estate broker-salesman, the name of the real estate broker with whom the licensee is associated; and

~~[(h)]~~ (i) In at least 14-point bold type, the following disclaimer: Notwithstanding any preprinted ~~[verbiage]~~ language to the contrary, this opinion is not an appraisal of the market value of the property. ~~[It is intended only for the benefit of the requesting party for the purpose of assisting the requesting party in deciding the listing, offering, sale, exchange, option, lease or acquisition price of the real property and not for any other purpose, including, without limitation, obtaining financing.]~~ If an appraisal is desired, the services of a licensed or certified appraiser must be obtained.

~~[3. A broker's price opinion may not be used as a written appraisal for the purposes of obtaining a loan or any other financing, including, without limitation, for the purpose of fulfilling the requirements of subsection 1 of NRS 645B.300.]~~

4. If a broker's price opinion is submitted electronically or on a form supplied by the requesting party:

(a) A signature required by paragraph (g) of subsection 3 may be an electronic signature, as defined by NRS 719.100.

(b) A signature required by paragraph (g) of subsection 3 and the disclaimer required by paragraph (i) of subsection 3 may be transmitted in a separate attachment if the electronic format or form supplied by the requesting party does not allow additional comments to be written by the licensee. The electronic format or the form supplied by the requesting party must:

(1) Reference the existence of a separate attachment; and

(2) Include a statement that the broker's price opinion is not complete without the attachment.

5. A broker's price opinion that is submitted electronically is subject to any regulations relating to recordkeeping as adopted pursuant to this chapter.

6. A broker is responsible for all activities of a licensee who is associated with the broker and with the preparation of a broker's price opinion.

7. The Commission may adopt regulations prescribing the manner in which a broker's price opinion must be prepared in accordance with the provisions of this section.

8. As used in this section, "broker's price opinion" means a written analysis, opinion or conclusion that a person licensed pursuant to this chapter prepares for a ~~*[seller, purchaser or third party making decisions related to the disposition of real property, including, without limitation, the listing, offering, sale, exchange, option or lease of the real property or the determination of an acquisition price for the]*~~ ***person described in subsection 2 relating to the estimated price for a specified parcel of real property.***

Sec. 2. 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.

Senate Bill No. 190.

Bill read second time.

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

Amendment No. 668.

AN ACT relating to counties; ~~[repealing]~~ **removing** the requirement that a county fair and recreation board in certain larger counties obtain the approval of the board of county commissioners before engaging in certain transactions relating to real property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a county fair and recreation board in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County) from engaging in any transaction relating to real property without the prior approval of the board of county commissioners. (NRS 244A.627) This bill ~~[repeals]~~ **removes** the requirement of obtaining prior approval of the board of county commissioners before the county fair and recreation board engages in ~~[a transaction]~~ **certain transactions** relating to real property. **The county fair and recreation board still must obtain prior approval of the board of county commissioners before selling or leasing to a person or governmental entity any real property in the county which is located in a city whose population is less than 150,000.**

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

Section 1. (Deleted by amendment.)

Sec. 1.5. **NRS 244A.627 is hereby amended to read as follows:**

244A.627 Notwithstanding any other provision of law, no county fair and recreation board in a county whose population is 100,000 or more and less than 400,000 may ~~[acquire, purchase, lease, sell, or dispose of]~~ ***sell or lease to a person or governmental entity*** any real property ~~[or engage in any other transaction relating to real property]~~ ***within the county which is located in a city whose population is less than 150,000*** without prior approval of the board of county commissioners.

Sec. 2. ~~[NRS 244A.627 is hereby repealed.]~~ **(Deleted by amendment.)**

~~[~~

~~TEXT OF REPEALED SECTION~~

~~244A.627 Limitations on powers of board concerning real property in certain counties. Notwithstanding any other provision of law, no county fair and recreation board in a county whose population is 100,000 or more and less than 400,000 may acquire, purchase, lease, sell, or dispose of any real property or engage in any other transaction relating to real property without prior approval of the board of county commissioners.]~~

Assemblywoman Smith moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 197.

Bill read second time.

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

Amendment No. 780.

AN ACT relating to drugs; authorizing certain facilities to return certain prescription drugs for reissuance by nonprofit pharmacies; establishing procedures and requirements for the reissuance of certain prescription drugs

transferred to nonprofit pharmacies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows public and private mental health facilities, facilities for skilled nursing, facilities for intermediate care and correctional facilities to return to the dispensing pharmacy certain prescription drugs that are dispensed to a patient of the facility but not used by that patient and to reissue those drugs to other patients of the facility. (NRS 433.801, 449.2485, 639.2675) **Sections 1, 2 and 6** of this bill authorize those facilities to return to the dispensing pharmacy such drugs for reissuance by a nonprofit pharmacy designated by the State Board of Pharmacy to reissue the drugs. **Section 3** of this bill authorizes nonprofit pharmacies to reissue those drugs for other prescriptions in the pharmacy free of charge. **Section 3** also provides that a person, pharmacy, facility or ~~[pharmaceutical]~~ manufacturer ~~[is immune from certain civil liability for damages sustained as a result of any act or omission in carrying out the provisions relating to the transfer and reissuance of those drugs.]~~ **of a drug who exercises reasonable care in the transfer, acceptance, distribution or dispensation of a drug is not subject to certain civil or criminal liability.** The Board is required to adopt regulations to carry out the provisions of this bill.

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

Section 1. NRS 433.801 is hereby amended to read as follows:

433.801 1. A public or private mental health facility may return a prescription drug that is dispensed to a patient of the facility, but will not be used by that patient, to the dispensing pharmacy for the purpose of reissuing the drug to fill other prescriptions for patients in that facility ***or for the purpose of transferring the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act*** if:

(a) The drug is not a ~~[schedule II drug specified in or pursuant to chapter 453 of NRS;]~~ ***controlled substance;***

(b) The drug is dispensed in a unit dose, in individually sealed doses or in a bottle that is sealed by the manufacturer of the drug;

(c) The drug is returned unopened and sealed in the original manufacturer's packaging or bottle;

(d) The usefulness of the drug has not expired;

(e) The packaging or bottle contains the expiration date of the usefulness of the drug; and

(f) The name of the patient for whom the drug was originally prescribed, the prescription number and any other identifying marks are obliterated from the packaging or bottle before the return of the drug.

2. A dispensing pharmacy to which a drug is returned pursuant to this section may ~~[reissue]~~ ***:***

(a) Reissue the drug to fill other prescriptions for patients in the same facility if the registered pharmacist of the pharmacy determines that the drug is suitable for that purpose in accordance with standards adopted by the State Board of Pharmacy pursuant to subsection 5 ~~[.]~~ ***; or***

(b) Transfer the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act.

3. No drug that is returned to a dispensing pharmacy pursuant to this section may be used to fill other prescriptions more than one time.

4. A mental health facility shall adopt written procedures for returning drugs to a dispensing pharmacy pursuant to this section. The procedures must:

(a) Provide appropriate safeguards for ensuring that the drugs are not compromised or illegally diverted during their return.

(b) Require the maintenance and retention of such records relating to the return of such drugs as are required by the State Board of Pharmacy.

(c) Be approved by the State Board of Pharmacy.

5. The State Board of Pharmacy shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, requirements for:

(a) Returning and reissuing such drugs pursuant to the provisions of this section.

(b) ***Transferring drugs to a nonprofit pharmacy pursuant to the provisions of this section and section 3 of this act.***

(c) Maintaining records relating to the return and the use of such drugs to fill other prescriptions.

Sec. 2. NRS 449.2485 is hereby amended to read as follows:

449.2485 1. A facility for skilled nursing or a facility for intermediate care may return a prescription drug that is dispensed to a patient of the facility, but will not be used by that patient, to the dispensing pharmacy for the purpose of reissuing the drug to fill other prescriptions for patients in that facility ***or for the purpose of transferring the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act*** if:

(a) The drug is not a ~~[schedule II drug specified in or pursuant to chapter 453 of NRS;]~~ ***controlled substance;***

(b) The drug is dispensed in a unit dose, in individually sealed doses or in a bottle sealed by the manufacturer of the drug;

(c) The drug is returned unopened and sealed in the original manufacturer's packaging or bottle;

(d) The usefulness of the drug has not expired;

(e) The packaging or bottle contains the expiration date of the usefulness of the drug; and

(f) The name of the patient for whom the drug was originally prescribed, the prescription number and any other identifying marks are obliterated from the packaging or bottle before the return of the drug.

2. A dispensing pharmacy to which a drug is returned pursuant to this section may ~~[reissue]~~ ***:***

(a) Reissue the drug to fill other prescriptions for patients in the same facility if the registered pharmacist of the pharmacy determines that the drug is suitable for that purpose in accordance with standards adopted by the State Board of Pharmacy pursuant to subsection 5 ~~[.]~~ ***; or***

(b) Transfer the drug to a nonprofit pharmacy designated by the State Board of Pharmacy pursuant to section 3 of this act.

3. No drug that is returned to a dispensing pharmacy pursuant to this section may be used to fill other prescriptions more than one time.

4. A facility for skilled nursing or facility for intermediate care shall adopt written procedures for returning drugs to a dispensing pharmacy pursuant to this section. The procedures must:

(a) Provide appropriate safeguards for ensuring that the drugs are not compromised or illegally diverted during their return.

(b) Require the maintenance and retention of such records relating to the return of drugs to dispensing pharmacies as are required by the State Board of Pharmacy.

(c) Be approved by the State Board of Pharmacy.

5. The State Board of Pharmacy shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation, requirements for:

(a) Returning and reissuing such drugs pursuant to the provisions of this section.

(b) ***Transferring drugs to a nonprofit pharmacy pursuant to the provisions of this section and section 3 of this act.***

(c) Maintaining records relating to the return and the use of such drugs to fill other prescriptions.

Sec. 3. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A nonprofit pharmacy designated by the Board in accordance with the regulations adopted pursuant to subsection ~~[5]~~ 6 to which a drug is transferred pursuant to NRS 433.801, 449.2485 or 639.2675 may reissue the drug to fill other prescriptions in the same pharmacy free of charge if the registered pharmacist of the nonprofit pharmacy determines that the drug is suitable for that purpose in accordance with the requirements adopted by the Board pursuant to subsection ~~[5]~~ 6 and if:

(a) The drug is not a controlled substance;

(b) The drug is dispensed in a unit dose, in individually sealed doses or in a bottle that is sealed by the manufacturer of the drug;

(c) The drug is unopened and sealed in the original manufacturer's packaging or bottle;

(d) The usefulness of the drug has not expired;

(e) The packaging or bottle contains the expiration date of the usefulness of the drug; and

(f) The name of the patient for whom the drug was originally prescribed, the prescription number and any other identifying marks are obliterated from the packaging or bottle before the reissuance of the drug.

2. A person, pharmacy [,] or facility [or pharmaceutical manufacturer is immune from civil liability for damages sustained as a result of any act or omission in carrying out the provisions of this section if:

(a) That person, pharmacy, facility or pharmaceutical manufacturer complied with the procedures adopted pursuant to subsection 4 and the regulations adopted pursuant to subsection 5; and

(b) The act or omission does not amount to gross negligence or willful misconduct.

→ Before receiving a drug pursuant to this section, a person or his guardian, if applicable, must sign a form acknowledging that he understands the provisions of this subsection.

3.] who exercises reasonable care in the transfer, acceptance, distribution or dispensation of a drug in accordance with the provisions of this section and NRS 433.801, 449.2485 and 639.2675 and the regulations adopted pursuant thereto is not subject to any civil or criminal liability or disciplinary action by a professional licensing board for any loss, injury or death that results from the transfer, acceptance, distribution or dispensation of the drug.

3. A manufacturer of a drug is not subject to civil or criminal liability for any claim or injury arising from the transfer, acceptance, distribution or dispensation of the drug pursuant to this section and NRS 433.801, 449.2485 and 639.2675 and the regulations adopted pursuant thereto.

4. No drug that is transferred to a nonprofit pharmacy pursuant to this section may be used to fill other prescriptions more than one time.

[4.] 5. A nonprofit pharmacy shall adopt written procedures for accepting and reissuing drugs pursuant to this section. The procedures must:

(a) Provide appropriate safeguards for ensuring that the drugs are not compromised or illegally diverted before being reissued.

(b) Require the maintenance and retention of records relating to the acceptance and use of the drugs and any other records as are required by the Board.

(c) Be approved by the Board.

[5.] 6. The Board shall adopt such regulations as are necessary to carry out the provisions of this section, including, without limitation:

(a) Requirements for reissuing drugs pursuant to this section.

(b) Requirements for accepting drugs transferred to a nonprofit pharmacy pursuant to the provisions of this section and NRS 433.801, 449.2485 and 639.2675.

(c) Requirements for maintaining records relating to the acceptance and use of drugs to fill other prescriptions pursuant to this section.

(d) The criteria and procedure for obtaining a designation as a nonprofit pharmacy for the purposes of this section, including, without limitation, provisions for a pharmacy, registered pharmacist or practitioner who is registered with the Board to be designated as a nonprofit pharmacy.

Sec. 4. NRS 639.063 is hereby amended to read as follows:

639.063 1. The Board shall prepare an annual report concerning drugs that are returned or transferred to pharmacies pursuant to NRS 433.801, 449.2485 and 639.2675 ***and section 3 of this act*** and are reissued to fill other prescriptions. The report must include, without limitation:

(a) The number of drugs that are returned to dispensing pharmacies.

(b) ***The number of drugs that are transferred to nonprofit pharmacies designated by the Board pursuant to section 3 of this act.***

(c) The number of drugs that are reissued to fill other prescriptions.

~~[(c)]~~ ***(d)*** An estimate of the amount of money saved by reissuing such drugs to fill other prescriptions.

~~[(d)]~~ ***(e)*** Any other information that the Board deems necessary.

2. The report must be:

(a) Available for public inspection during regular business hours at the office of the Board; and

(b) Posted on a website or other Internet site that is operated or administered by or on behalf of the Board.

Sec. 5. NRS 639.267 is hereby amended to read as follows:

639.267 1. As used in this section, "unit dose" means that quantity of a drug which is packaged as a single dose.

2. A pharmacist who provides a regimen of drugs in unit doses to a patient in a facility for skilled nursing or facility for intermediate care as defined in chapter 449 of NRS may credit the person or agency which paid for the drug for any unused doses. The pharmacist may return the drugs to the dispensing pharmacy, which may reissue the drugs to fill other prescriptions ***or transfer the drugs*** in accordance with the provisions of NRS 449.2485.

3. Except schedule II drugs specified in or pursuant to chapter 453 of NRS and except as otherwise provided in NRS 433.801, 449.2485 and 639.2675 ~~[,]~~ ***and section 3 of this act,*** unit doses packaged in ampules or vials which do not require refrigeration may be returned to the pharmacy which dispensed them. The Board shall, by regulation, authorize the return of any other type or brand of drug which is packaged in unit doses if the Food and Drug Administration has approved the packaging for that purpose.

Sec. 6. NRS 639.2675 is hereby amended to read as follows:

639.2675 1. A prescription drug that is dispensed by a pharmacy to an offender incarcerated in a correctional institution, but will not be used by that offender, may be returned to that dispensing pharmacy for the purpose of reissuing the drug to fill other prescriptions for offenders incarcerated in that correctional institution ***or for the purposes of transferring the drug to a***

nonprofit pharmacy designated by the Board pursuant to section 3 of this act if:

(a) The drug is not a ~~[schedule II drug specified in or pursuant to chapter 453 of NRS;]~~ ***controlled substance;***

(b) The drug is dispensed in a unit dose, in individually sealed doses or in a bottle that is sealed by the manufacturer of the drug;

(c) The drug is returned unopened and sealed in the original manufacturer's packaging or bottle;

(d) The usefulness of the drug has not expired;

(e) The packaging or bottle contains the expiration date of the usefulness of the drug; and

(f) The name of the patient for whom the drug was originally prescribed, the prescription number and any other identifying marks are obliterated from the packaging or bottle before the return of the drug.

2. A pharmacy to which a drug is returned pursuant to this section may ~~[reissue]~~ ***:***

(a) Reissue the drug to fill other prescriptions for offenders incarcerated in the same correctional institution if the registered pharmacist of the pharmacy determines that the drug is suitable for that purpose in accordance with standards adopted by the Board pursuant to subsection 5 ~~[.]~~ ***; or***

(b) Transfer the drug to a nonprofit pharmacy designated by the Board pursuant to section 3 of this act.

3. No drug that is returned to a dispensing pharmacy pursuant to this section may be used to fill other prescriptions more than one time.

4. The director of a correctional institution shall adopt written procedures for returning drugs to a dispensing pharmacy pursuant to this section. The procedures must:

(a) Provide appropriate safeguards for ensuring that the drugs are not compromised or illegally diverted during their return.

(b) Require the maintenance and retention of such records relating to the return of such drugs as are required by the Board.

(c) Be approved by the Board.

5. The Board shall adopt such regulations as are necessary to carry out the provisions of this section including, without limitation, requirements for:

(a) Returning and reissuing such drugs pursuant to the provisions of this section.

(b) ***Transferring drugs to a nonprofit pharmacy pursuant to the provisions of this section and section 3 of this act.***

(c) Maintaining records relating to the return and the use of such drugs to fill other prescriptions.

6. As used in this section, "correctional institution" means an institution or facility operated by the Department of Corrections.

Sec. 7. NRS 639.282 is hereby amended to read as follows:

639.282 1. Except as otherwise provided in NRS 433.801, 449.2485, 639.267 and 639.2675 ~~[,]~~ ***and section 3 of this act,*** it is unlawful for any

person to have in his possession, or under his control, for the purpose of resale, or to sell or offer to sell or dispense or give away, any pharmaceutical preparation, drug or chemical which:

(a) Has been dispensed pursuant to a prescription or chart order and has left the control of a registered pharmacist or practitioner;

(b) Has been damaged or subjected to damage by heat, smoke, fire or water, or other cause which might reasonably render it unfit for human or animal use;

(c) Has been obtained through bankruptcy or foreclosure proceedings, or other court action, auction or other legal or administrative proceedings, except when the pharmaceutical preparation, drug or chemical is in the original sealed container;

(d) Is no longer safe or effective for use, as indicated by the expiration date appearing on its label; or

(e) Has not been properly stored or refrigerated as required by its label.

2. The provisions of subsection 1 do not apply if the person in whose possession the pharmaceutical preparation, drug or chemical is found also has in his possession a valid and acceptable certification of analysis attesting to the purity and strength of the pharmaceutical preparation, drug or chemical and attesting to the fact that it can be safely and effectively used by humans or animals. The preparation, drug or chemical must not be sold or otherwise disposed of until the certification required by this subsection has been presented to and approved by the Board.

3. In the absence of conclusive proof that the preparation, drug or chemical can be used safely and effectively by humans or animals, it must be destroyed under the direct supervision of a member or an inspector of the Board, or two persons designated as agents by the Board who include an inspector of a health care board, a licensed practitioner of a health care board or a peace officer of an agency that enforces the provisions of chapters 453 and 454 of NRS.

4. As used in this section, "health care board" includes the State Board of Pharmacy, the State Board of Nursing, the Board of Medical Examiners and the Nevada State Board of Veterinary Medical Examiners.

Sec. 8. 1. This section and sections 1, 2, 3 and 6 of this act become effective upon passage and approval for the purposes of adopting regulations and on October 1, 2009, for all other purposes.

2. Sections 4, 5 and 7 of this act become effective on October 1, 2009.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 227.

Bill read second time.

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

Amendment No. 716.

AN ACT relating to security of personal information; requiring the compliance with certain standards or the use of encryption by data collectors when transferring personal information; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires that a data collector comply with certain standards or use encryption to protect information that is either transmitted electronically or contained on a data storage device that is moved beyond the controls of the data collector. **Section 1** also renders a data collector not liable for a breach of the security of the system data in certain circumstances.

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

Section 1. Chapter 603A of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a data collector doing business in this State accepts a payment card in connection with a sale of goods or services, the data collector shall comply with the current version of the Payment Card Industry (PCI) Data Security Standard, as adopted by the PCI Security Standards Council or its successor organization, with respect to those transactions, not later than the date for compliance set forth in the Payment Card Industry (PCI) Data Security Standard or by the PCI Security Standards Council or its successor organization.

2. A data collector doing business in this State to whom subsection 1 does not apply shall not:

(a) Transfer any personal information through an electronic, nonvoice transmission other than a facsimile to a person outside of the secure system of the data collector unless the data collector uses encryption to ensure the security of electronic transmission; or

(b) Move any data storage device containing personal information beyond the logical or physical controls of the data collector or its data storage contractor unless the data collector uses encryption to ensure the security of the information.

3. A data collector shall not be liable for damages for a breach of the security of the system data if:

(a) The data collector is in compliance with this section; and

(b) The breach is not caused by the gross negligence or intentional misconduct of the data collector, its officers, employees or agents.

4. The requirements of this section do not apply to:

(a) A telecommunication provider acting solely in the role of conveying the communications of other persons, regardless of the mode of conveyance used, including, without limitation:

(1) Optical, wire line and wireless facilities;

(2) Analog transmission; and

(3) Digital subscriber line transmission, voice over Internet protocol and other digital transmission technology.

(b) Data transmission over a secure, private communication channel for:

(1) Approval or processing of negotiable instruments, electronic fund transfers or similar payment methods; or

(2) Issuance of reports regarding account closures due to fraud, substantial overdrafts, abuse of automatic teller machines or related information regarding a customer.

5. As used in this section:

(a) "Data storage device" means any device that stores information or data from any electronic or optical medium, including, but not limited to, computers, cellular telephones, magnetic tape, electronic computer drives and optical computer drives, and the medium itself.

(b) "Encryption" means the protection of data in electronic or optical form, in storage or in transit, using:

(1) An encryption technology that has been adopted by an established standards setting body, including, but not limited to, the Federal Information Processing Standards issued by the National Institute of Standards and Technology, which renders such data indecipherable in the absence of associated cryptographic keys necessary to enable decryption of such data; and

(2) Appropriate management and safeguards of cryptographic keys to protect the integrity of the encryption using guidelines promulgated by an established standards setting body, including, but not limited to, the National Institute of Standards and Technology.

(c) "Facsimile" means an electronic transmission between two dedicated fax machines using Group 3 or Group 4 digital formats that conform to the International Telecommunications Union T.4 or T.38 standards or computer modems that conform to the International Telecommunications Union T.31 or T.32 standards. The term does not include onward transmission to a third device after protocol conversion, including, but not limited to, any data storage device.

(d) "Payment card" has the meaning ascribed to it in NRS 205.602.

(e) "Telecommunication provider" has the meaning ascribed to it in NRS 704.027.

Sec. 2. NRS 597.970 is hereby repealed.

Sec. 3. This act becomes effective on January 1, 2010.

TEXT OF REPEALED SECTION

597.970 Restrictions on transfer of personal information through electronic transmission.

1. A business in this State shall not transfer any personal information of a customer through an electronic transmission other than a facsimile to a

person outside of the secure system of the business unless the business uses encryption to ensure the security of electronic transmission.

2. As used in this section:

(a) "Encryption" has the meaning ascribed to it in NRS 205.4742.

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

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 230.

Bill read second time.

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

Amendment No. 715.

AN ACT relating to real estate; revising provisions governing certain licenses issued by the Real Estate Division of the Department of Business and Industry; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that: (1) the initial period of licensure for an original license as a real estate broker, broker-salesman or salesman is 12 consecutive months beginning on the first day of the first calendar month after the original license is issued by the Real Estate Division of the Department of Business and Industry; and (2) each subsequent period of licensure is 24 consecutive months. Existing law additionally provides that other licenses issued pursuant to chapter 645 of NRS are issued for a period of 24 consecutive months. (NRS 645.780) **Sections 1 and 2** of this bill increase the period of initial licensure for a license as a real estate broker, broker-salesman or salesman from 12 to 24 consecutive months and each subsequent period of licensure from 24 to 48 consecutive months. **Sections 1 and 2** also increase the period of licensure for other licenses issued by the Division from 24 to 48 consecutive months. (NRS 645.490)

Section 3 of this bill increases the fee for each original license of a real estate broker, broker-salesman, corporate broker, real estate salesman and branch office, and each renewal of such a license, to correspond with the increase in the period of licensure of each license pursuant to **sections 1 and 2** of this bill. **Section 3** also increases the penalty for the late filing of a renewal for such licenses. (NRS 645.830)

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

Section 1. NRS 645.490 is hereby amended to read as follows:

645.490 1. Upon satisfactorily passing the written examination and upon complying with all other provisions of law and conditions of this chapter, a license shall thereupon be granted by the Division to the successful

applicant therefor as a real estate broker, broker-salesman or salesman, and the applicant, upon receiving the license, may conduct the business of a real estate broker, broker-salesman or salesman in this State.

2. The Division shall issue licenses as a real estate broker, broker-salesman or salesman to all applicants who qualify and comply with all provisions of law and all requirements of this chapter.

3. Except as otherwise provided in NRS 645.785:

(a) An original license as a real estate broker, broker-salesman or salesman must be renewed with the Division before the expiration of the initial license period of ~~[12]~~ ***24*** consecutive months as prescribed in NRS 645.780; and

(b) Thereafter, the license must be renewed with the Division before the expiration of each subsequent license period of ~~[24]~~ ***48*** consecutive months as prescribed in NRS 645.780.

Sec. 2. NRS 645.780 is hereby amended to read as follows:

645.780 1. Each license issued under the provisions of this chapter expires at midnight on the last day of the last month of the applicable license period for the license.

2. The initial license period for an original license as a real estate broker, broker-salesman or salesman is a period of ~~[12]~~ ***24*** consecutive months beginning on the first day of the first calendar month after the original license is issued by the Division. Thereafter, each subsequent license period is a period of ~~[24]~~ ***48*** consecutive months beginning on the first day of the first calendar month after a renewal of the license is issued by the Division for the subsequent license period.

3. For all other licenses, the license period is a period of ~~[24]~~ ***48*** consecutive months beginning on the first day of the first calendar month after the license or any renewal of the license is issued by the Division, unless a specific statute:

(a) Provides for a different license period; or

(b) Expressly authorizes a different license period to be provided for by regulation.

4. The Division may:

(a) Create and maintain a secure website on the Internet through which each license, permit, certificate or registration issued pursuant to the provisions of this chapter may be renewed; and

(b) For each license, permit, certificate or registration renewed through the use of a website created and maintained pursuant to paragraph (a), charge a fee in addition to any other fee provided for pursuant to this chapter which must not exceed the actual cost to the Division for providing that service.

Sec. 3. NRS 645.830 is hereby amended to read as follows:

645.830 1. The following fees must be charged by and paid to the Division:

For each original real estate broker's, broker-salesman's or corporate broker's license..... ~~[$105]~~ ***$210***

For each original real estate salesman's license.....~~[85]~~ ***170***
For each original branch office license.....~~[120]~~ ***240***
For real estate education, research and recovery to be paid at the time an application for an original license is filed..... 40
For real estate education, research and recovery to be paid at the time an application for renewal of a license is filed .....~~[40]~~ ***80***
For each renewal of a real estate broker's, broker-salesman's or corporate broker's license.....~~[180]~~ ***360***
For each renewal of a real estate salesman's license .....~~[140]~~ ***280***
For each renewal of a real estate branch office license.....~~[110]~~ ***220***
For each penalty for late filing of a renewal for a broker's, broker-salesman's or corporate broker's license.....~~[95]~~ ~~*[190]*~~ ***180***
For each penalty for late filing of a renewal for a salesman's license .....~~[75]~~ ~~*[150]*~~ ***140***
For each change of name or address..... $20
For each transfer of a real estate salesman's or broker-salesman's license and change of association or employment..... 20
For each duplicate license where the original license is lost or destroyed, and an affidavit is made thereof 20
For each change of broker status from broker to broker-salesman..... 20
For each change of broker status from broker-salesman to broker..... 40
For each reinstatement to active status of an inactive real estate broker's, broker-salesman's or salesman's license 20
For each reinstatement of a real estate broker's license when the licensee fails to give immediate written notice to the Division of a change of name or business location..... 30
For each reinstatement of a real estate salesman's or broker-salesman's license when he fails to notify the Division of a change of broker within 30 days of termination by previous broker 30
For each original registration of an owner-developer..... 125
For each annual renewal of a registration of an owner-developer..... 125
For each enlargement of the area of an owner-developer's registration 50
For each cooperative certificate issued to an out-of-state broker licensee for 1 year or fraction thereof 150
For each original accreditation of a course of continuing education 100
For each renewal of accreditation of a course of continuing education..... 50
For each annual approval of a course of instruction offered in preparation for an original license or permit 100

2. The fees prescribed by this section for courses of instruction offered in preparation for an original license or permit or for courses of continuing education do not apply to:

(a) Any university, state college or community college of the Nevada System of Higher Education.

(b) Any agency of the State.

(c) Any regulatory agency of the Federal Government.

3. The Commission shall adopt regulations which establish the fees to be charged and collected by the Division to pay the costs of any investigation of a person's background.

Sec. 4. The amendatory provisions of this act apply to licenses issued or renewed by the Real Estate Division of the Department of Business and Industry pursuant to chapter 645 of NRS on or after July 1, 2011.

Sec. 5. This act becomes effective on July 1, 2011.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 269.

Bill read second time.

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

Amendment No. 783.

AN ACT relating to professions; requiring a provider of health care to disclose the results of certain tests to a designated investigator or member of the State Board of Osteopathic Medicine; providing for the licensure of perfusionists; prohibiting a person from engaging in the practice of perfusion without a license issued by the Board of Medical Examiners; providing for the immediate suspension of a license to practice medicine upon the conviction of the holder of the license of certain violations; expanding the definition of "practice of medicine" to include the performance of an autopsy; revising other provisions governing the issuance of a license to practice medicine by the Board of Medical Examiners; authorizing any person to file with the Board a complaint against a physician, perfusionist, physician assistant or practitioner of respiratory care under certain circumstances; revising provisions governing osteopathic medicine; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill makes extensive changes to existing law governing the practice of medicine and osteopathic medicine. This bill also provides for the licensing and regulation of perfusionists by the Board of Medical Examiners. A perfusionist is a medical professional who, under the order and supervision of a physician, performs various medical functions to ensure the safe management of a patient's cardiovascular, circulatory or respiratory system or other organs during surgical and other medical procedures. **Sections 1, 3-13, 15, 16, 19-21, 24, 29, 33, 34, 39, 45, 46, 50-52, 55, 59-65, 70 and 79-85** of this bill amend various provisions of NRS to ensure that perfusionists are licensed and regulated by the Board of Medical Examiners in approximately the same manner as physicians, physician assistants and practitioners of respiratory care. (NRS 629.031, 630.003, 630.005, 630.045, 630.047, 630.120, 630.137, 630.167, 630.197, 630.268, 630.307, 630.309, 630.326, 630.329, 630.336, 630.346, 630.358, 630.366, 630.388, 630.390, 630.400,

630A.090, 632.472, 633.171, 652.210, 200.471, 200.5093, 200.50935, 372.7285, 374.731, 432B.220)

This bill also makes various changes relating to the Board of Medical Examiners and the practice of medicine. **Section 14** of this bill adds a new section to chapter 630 of NRS that provides for the immediate suspension of a license issued by the Board upon the conviction of the licensee of a felony for a violation of a federal or state law or regulation relating to his practice. **Section 17** of this bill expands the definition of "practice of medicine" to include the performance of an autopsy. (NRS 630.020) **Section 18** of this bill deletes existing provisions of law that authorize the Board to revoke a license only in accordance with certain provisions. (NRS 630.045) **Section 22** of this bill changes the fiscal year for the Board to commence on January 1 and end on December 31. (NRS 630.123) **Section 25** of this bill authorizes the Executive Director of the Board to issue subpoenas when conducting investigations for the Board. (NRS 630.140) **Sections 26-28, 30-32 and 35** of this bill make various changes concerning the requirements for the issuance of licenses by the Board, including the information required to be submitted for a license, the submission of the fingerprints of the applicant and the appeal of a denial of an application. (NRS 630.160, 630.1605, 630.167, 630.170, 630.173, 630.195, 630.200) **Sections 36-38** of this bill revise certain categories of licenses issued by the Board, including the issuance of a special volunteer medical license to a physician who participates in disaster relief operations and the issuance of an authorized facility license. (NRS 630.258, 630.261, 630.262) **Section 40** of this bill requires a person who wishes to practice respiratory care to complete an educational program for respiratory care approved by the Commission on Accreditation of Allied Health Education Programs or the Committee on Accreditation for Respiratory Care. (NRS 630.277) **Sections 41-45, 47-49, 53, 54, 57 and 58** of this bill make numerous changes concerning the investigation of complaints against licensees, the grounds for the imposition of disciplinary action and the procedures to be followed in disciplinary proceedings. (NRS 630.299, 630.306, 630.3062, 630.307, 630.311, 630.318, 630.326, 630.339, 630.342, 630.352, 630.356)

Sections 66-78 of this bill make similar changes relating to the State Board of Osteopathic Medicine and the practice of osteopathy. **Section 67** adds a new section to chapter 633 of NRS which authorizes the Board or an investigative committee of the Board to issue to a person who violates or is ~~[about to violate]~~ **violating** the provisions of that chapter a letter of warning, a letter of concern or a nonpunitive admonishment. **Section 68** also adds a new section to that chapter which establishes the standard of proof in disciplinary proceedings that are conducted pursuant to that chapter. **Sections 69-78** make various changes concerning unprofessional conduct, the requirements for licensure to practice osteopathic medicine, examinations, the grounds for disciplinary action and the imposition of penalties after a

disciplinary proceeding. (NRS 633.131, 633.171, 633.322, 633.331, 633.411, 633.511, 633.561, 633.625, 633.651, 633.691)

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

Section 1. NRS 629.031 is hereby amended to read as follows:

629.031 Except as otherwise provided by ***a*** specific statute:

1. "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed marriage and family therapist, chiropractor, athletic trainer, ***perfusionist,*** doctor of Oriental medicine in any form, medical laboratory director or technician, pharmacist or a licensed hospital as the employer of any such person.

2. For the purposes of NRS 629.051, 629.061 and 629.065, the term includes a facility that maintains the health care records of patients.

Sec. 2. NRS 629.069 is hereby amended to read as follows:

629.069 1. A provider of health care shall disclose the results of all tests performed pursuant to NRS 441A.195 to:

(a) The person who was tested and, upon request, a member of the family of a decedent who was tested;

(b) The law enforcement officer, correctional officer, emergency medical attendant, firefighter, county coroner or medical examiner or their employee, other person who is employed by an agency of criminal justice or other public employee whose duties may require him to come into contact with human blood or bodily fluids who filed the petition or on whose behalf the petition was filed pursuant to NRS 441A.195;

(c) The designated health care officer for the employer of the person described in paragraph (b) or, if there is no designated health care officer, the person designated by the employer to document and verify possible exposure to contagious diseases; **[**and**]**

(d) If the person who was tested is incarcerated or detained, the person in charge of the facility in which the person is incarcerated or detained and the chief medical officer of the facility in which the person is incarcerated or detained, if any ~~[.]~~ ***; and***

(e) A designated investigator or member of the State Board of Osteopathic Medicine during any period in which the Board is investigating the holder of a license pursuant to chapter 633 of NRS.

2. A provider of health care and an agent or employee of a provider of health care are immune from civil liability for a disclosure made in accordance with the provisions of this section.

Sec. 3. Chapter 630 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 14, inclusive, of this act.

Sec. 4. ***1. "Perfusion" means the performance of functions which are necessary to provide for the support, treatment, measurement or***

supplementation of a patient's cardiovascular, circulatory or respiratory system or other organs, or any combination of those activities, and to ensure the safe management of the patient's physiological functions by monitoring and analyzing the parameters of the patient's systems or organs under the order and supervision of a physician.

2. The term includes, without limitation:

(a) The use of extracorporeal circulation and any associated therapeutic and diagnostic technologies; and

(b) The use of long-term cardiopulmonary support techniques.

3. As used in this section, "extracorporeal circulation" means the diversion of a patient's blood through a heart-lung bypass machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver or other organs.

Sec. 5. ***"Perfusionist" means a person who is licensed to practice perfusion by the Board.***

Sec. 6. ***"Temporarily licensed perfusionist" means a person temporarily licensed to practice perfusion by the Board pursuant to section 13 of this act.***

Sec. 7. ***The Board shall adopt regulations regarding the licensure of perfusionists, including, without limitation:***

1. The criteria for licensure as a perfusionist and the standards of professional conduct for holders of such a license;

2. The qualifications and fitness of applicants for licenses, renewal of licenses and reciprocal licenses;

3. The requirements for any practical, oral or written examination for a license that the Board may require pursuant to section 9 of this act, including, without limitation, the passing grade for such an examination;

4. The fees for examination and for reinstatement of expired licenses;

5. The requirements for continuing education for the renewal of a license;

6. A code of ethics for perfusionists; and

7. The procedures for the revocation, suspension or denial of a license for a violation of this chapter or the regulations of the Board.

Sec. 8. ***To be eligible for licensing by the Board as a perfusionist, an applicant must:***

1. Be a natural person of good moral character;

2. Submit a completed application as required by the Board by the date established by the Board;

3. Submit any required fees by the date established by the Board;

4. Have successfully completed a perfusion education program approved by the Board, which must:

(a) Have been approved by the Committee on Allied Health Education and Accreditation of the American Medical Association before June 1, 1994; or

(b) Be a program that has educational standards that are at least as stringent as those established by the Accreditation Committee-Perfusion Education and approved by the Commission on Accreditation of Allied Health Education Programs of the American Medical Association, or its successor;

5. Pass an examination required pursuant to section 9 of this act; and

6. Comply with any other requirements set by the Board.

Sec. 9. ***1. The Board shall use the certification examinations given by the American Board of Cardiovascular Perfusion or its successor in determining the qualifications for granting a license to practice perfusion.***

2. The Board shall notify each applicant of the results of the examination.

3. If a person who fails the examination makes a written request, the Board shall furnish the person with an analysis of his performance on the examination.

Sec. 10. ***The Board shall waive the examination required pursuant to section 9 of this act for an applicant who at the time of application:***

1. Is licensed as a perfusionist in another state, territory or possession of the United States, if the requirements for licensure are substantially similar to those required by the Board; or

2. Holds a current certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion or its successor before October 1, 2009.

Sec. 11. ***1. The Board shall issue a license as a perfusionist to each applicant who proves to the satisfaction of the Board that the applicant is qualified for licensure. The license authorizes the applicant to represent himself as a licensed perfusionist and to practice perfusion in this State subject to the conditions and limitations of this chapter.***

2. Each licensed perfusionist shall:

(a) Display his current license in a location which is accessible to the public;

(b) Keep a copy of his current license on file at any health care facility where he provides services; and

(c) Notify the Board of any change of address in accordance with NRS 630.254.

3. As used in this section, "health care facility" means a medical facility or facility for the dependent licensed pursuant to chapter 449 of NRS.

Sec. 12. ***1. Each license issued pursuant to section 11 of this act expires on July 1 of every odd-numbered year and may be renewed if, before the license expires, the holder of the license submits to the Board:***

(a) A completed application for renewal on a form prescribed by the Board;

(b) Proof of his completion of the requirements for continuing education prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(c) The applicable fee for renewal of the license prescribed by the Board pursuant to section 8 of this act.

2. A license that expires pursuant to this section not more than 2 years before an application for renewal is made is automatically suspended and may be reinstated only if the applicant:

(a) Complies with the provisions of subsection 1; and

(b) Submits to the Board the fees:

(1) For the reinstatement of an expired license, prescribed by regulations adopted by the Board pursuant to section 7 of this act; and

(2) For each biennium that the license was expired, for the renewal of the license.

3. If a license has been expired for more than 2 years, a person may not renew or reinstate the license but must apply for a new license and submit to the examination required pursuant to section 9 of this act.

4. The Board shall send a notice of renewal to each licensee not later than 60 days before his license expires. The notice must include the amount of the fee for renewal of the license.

Sec. 13. ***1. The Board may issue a temporary license to practice perfusion in this State to a person who has not yet completed the examination required pursuant to section 9 of this act but who:***

(a) Has completed an approved perfusion education program;

(b) Files an application; and

(c) Pays the required fee.

2. A perfusionist shall supervise and direct a temporarily licensed perfusionist at all times during which the temporarily licensed perfusionist performs perfusion.

3. A temporary license is valid for 1 year after the date it is issued and may be extended subject to regulation by the Board. The application for renewal must be signed by a supervising licensed perfusionist.

4. If a temporarily licensed perfusionist fails any portion of the examination required pursuant to section 9 of this act, he shall immediately surrender the temporary license to the Board.

Sec. 14. ***If the holder of a license that is issued or renewed pursuant to this chapter is convicted of a felony for a violation of any federal or state law or regulation relating to the holder's practice, the conviction operates as an immediate suspension of the license.***

Sec. 15. NRS 630.003 is hereby amended to read as follows:

630.003 1. The Legislature finds and declares that:

(a) It is among the responsibilities of State Government to ensure, as far as possible, that only competent persons practice medicine ***, perfusion*** and respiratory care within this State;

(b) For the protection and benefit of the public, the Legislature delegates to the Board of Medical Examiners the power and duty to determine the initial and continuing competence of physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care who are subject to the provisions of this chapter;

(c) The Board must exercise its regulatory power to ensure that the interests of the medical profession do not outweigh the interests of the public;

(d) The Board must ensure that unfit physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care are removed from the medical profession so that they will not cause harm to the public; and

(e) The Board must encourage and allow for public input into its regulatory activities to further improve the quality of medical practice within this State.

2. The powers conferred upon the Board by this chapter must be liberally construed to carry out these purposes for the protection and benefit of the public.

Sec. 16. NRS 630.005 is hereby amended to read as follows:

630.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 630.007 to 630.025, inclusive, ***and sections 4, 5 and 6 of this act*** have the meanings ascribed to them in those sections.

Sec. 17. NRS 630.020 is hereby amended to read as follows:

630.020 "Practice of medicine" means:

1. To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality ~~[.]~~ ***, including, but not limited to, the performance of an autopsy.***

2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.

3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics.

4. To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections 1 and 2.

Sec. 18. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege**.** ~~[, but the Board may revoke such a license only in accordance with the provisions of NRS 630.348.]~~

Sec. 19. NRS 630.045 is hereby amended to read as follows:

630.045 1. The purpose of licensing physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care is to protect the public health and safety and the general welfare of the people of this State.

2. Any license issued pursuant to this chapter is a revocable privilege.

Sec. 20. NRS 630.047 is hereby amended to read as follows:

630.047 1. This chapter does not apply to:

(a) A medical officer or ***perfusionist or*** practitioner of respiratory care of the Armed Services or a medical officer or ***perfusionist or*** practitioner of respiratory care of any division or department of the United States in the discharge of his official duties;

(b) Physicians who are called into this State, other than on a regular basis, for consultation with or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside;

(c) Physicians who are legally qualified to practice in the state where they reside and come into this State on an irregular basis to:

(1) Obtain medical training approved by the Board from a physician who is licensed in this State; or

(2) Provide medical instruction or training approved by the Board to physicians licensed in this State;

(d) Any person permitted to practice any other healing art under this title who does so within the scope of that authority, or healing by faith or Christian Science;

(e) The practice of respiratory care by a student as part of a program of study in respiratory care that is approved by the Board, or is recognized by a national organization which is approved by the Board to review such programs, if the student is enrolled in the program and provides respiratory care only under the supervision of a practitioner of respiratory care;

(f) The practice of respiratory care by a student who:

(1) Is enrolled in a clinical program of study in respiratory care which has been approved by the Board;

(2) Is employed by a medical facility, as defined in NRS 449.0151; and

(3) Provides respiratory care to patients who are not in a critical medical condition or, in an emergency, to patients who are in a critical medical condition and a practitioner of respiratory care is not immediately available to provide that care and the student is directed by a physician to provide respiratory care under his supervision until a practitioner of respiratory care is available;

(g) The practice of respiratory care by a person on himself or gratuitous respiratory care provided to a friend or a member of a person's family if the provider of the care does not represent himself as a practitioner of respiratory care;

(h) A ~~[cardiopulmonary perfusionist who is under the supervision of a surgeon or an anesthesiologist;~~

~~(i) A~~] person who is employed by a physician and provides respiratory care ***or services as a perfusionist*** under the supervision of that physician;

~~[(j)]~~ ***(i)*** The maintenance of medical equipment for ***perfusion or*** respiratory care that is not attached to a patient; and

~~[(k)]~~ ***(j)*** A person who installs medical equipment for respiratory care that is used in the home and gives instructions regarding the use of that equipment if the person is trained to provide such services and is supervised by a provider of health care who is acting within the authorized scope of his practice.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services outside of a medical school or medical facility by a person who is not a physician, physician assistant or practitioner of respiratory care in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 21. NRS 630.120 is hereby amended to read as follows:

630.120 1. The Board shall procure a seal.

2. All licenses issued to physicians, ***perfusionists,*** physician assistants and practitioners of respiratory care must bear the seal of the Board and the signatures of its President and Secretary-Treasurer.

Sec. 22. NRS 630.123 is hereby amended to read as follows:

630.123 The Board shall operate on the basis of a fiscal year commencing on ~~[July]~~ ***January*** 1 and terminating on ~~[June 30.]~~ ***December 31.***

Sec. 23. NRS 630.130 is hereby amended to read as follows:

630.130 1. In addition to the other powers and duties provided in this chapter, the Board shall, in the interest of the public, judiciously:

(a) Enforce the provisions of this chapter;

(b) Establish by regulation standards for licensure under this chapter;

(c) Conduct examinations for licensure and establish a system of scoring for those examinations;

(d) Investigate the character of each applicant for a license and issue licenses to those applicants who meet the qualifications set by this chapter and the Board; and

(e) Institute a proceeding in any court to enforce its orders or the provisions of this chapter.

2. On or before February 15 of each odd-numbered year, the Board shall submit to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the next regular session of the Legislature a written report compiling:

(a) Disciplinary action taken by the Board during the previous biennium against physicians for malpractice or negligence;

(b) Information reported to the Board during the previous biennium pursuant to NRS 630.3067, 630.3068, subsections ~~[2]~~ ***3*** and ~~[3]~~ ***4*** of NRS 630.307 and NRS 690B.250 and 690B.260; and

(c) Information reported to the Board during the previous biennium pursuant to NRS 630.30665, including, without limitation, the number and

types of surgeries performed by each holder of a license to practice medicine and the occurrence of sentinel events arising from such surgeries, if any.

➥ The report must include only aggregate information for statistical purposes and exclude any identifying information related to a particular person.

3. The Board may adopt such regulations as are necessary or desirable to enable it to carry out the provisions of this chapter.

Sec. 24. NRS 630.137 is hereby amended to read as follows:

630.137 1. Notwithstanding any other provision of law and except as otherwise provided in this section, the Board shall not adopt any regulations that prohibit or have the effect of prohibiting a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care from collaborating or consulting with another provider of health care.

2. The provisions of this section do not prevent the Board from adopting regulations that prohibit a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care from aiding or abetting another person in the unlicensed practice of medicine or the unlicensed practice of ***perfusion or*** respiratory care.

3. As used in this section, "provider of health care" has the meaning ascribed to it in NRS 629.031.

Sec. 25. NRS 630.140 is hereby amended to read as follows:

630.140 1. The Board may hold hearings and conduct investigations pertaining to its duties imposed under this chapter and take evidence on any such matter under inquiry before the Board. For the purposes of this chapter:

(a) Any member of the Board or other person authorized by law may administer oaths; and

(b) The Secretary-Treasurer ***, Executive Director*** or President of the Board or a hearing officer or the presiding member of a committee investigating a complaint may issue subpoenas to compel the attendance of witnesses and the production of books, X rays ***,*** ~~[~~and~~]~~ medical records and other papers ~~[.]~~ ***and tangible items.*** The Secretary-Treasurer, President or other officer of the Board acting on its behalf ***or the Executive Director*** must sign the subpoena.

2. If any person fails to comply with the subpoena ***,*** ~~[~~within 10 days after its issuance,~~]~~ the Secretary-Treasurer ***, Executive Director*** or President of the Board may petition the district court for an order of the court compelling compliance with the subpoena.

3. Upon such a petition, the court shall enter an order directing the person subpoenaed 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 complied with the subpoena. A certified copy of the order must be served upon the person subpoenaed.

4. If it appears to the court that the subpoena was regularly issued by the Board, the court shall enter an order compelling compliance with the

subpoena, and upon failure to obey the order the person shall be dealt with as for contempt of court.

Sec. 26. NRS 630.160 is hereby amended to read as follows:

630.160 1. Every person desiring to practice medicine must, before beginning to practice, procure from the Board a license authorizing him to practice.

2. Except as otherwise provided in NRS 630.1605, 630.161 and 630.258 to 630.265, inclusive, a license may be issued to any person who:

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

(b) Has received the degree of doctor of medicine from a medical school:

(1) Approved by the Liaison Committee on Medical Education of the American Medical Association and Association of American Medical Colleges; or

(2) Which provides a course of professional instruction equivalent to that provided in medical schools in the United States approved by the Liaison Committee on Medical Education;

(c) Is currently certified by a specialty board of the American Board of Medical Specialties and who agrees to maintain the certification for the duration of his licensure, or has passed:

(1) All parts of the examination given by the National Board of Medical Examiners;

(2) All parts of the Federation Licensing Examination;

(3) All parts of the United States Medical Licensing Examination;

(4) All parts of a licensing examination given by any state or territory of the United States, if the applicant is certified by a specialty board of the American Board of Medical Specialties;

(5) All parts of the examination to become a licentiate of the Medical Council of Canada; or

(6) Any combination of the examinations specified in subparagraphs (1), (2) and (3) that the Board determines to be sufficient;

(d) Is currently certified by a specialty board of the American Board of Medical Specialties in the specialty of emergency medicine, preventive medicine or family practice and who agrees to maintain certification in at least one of these specialties for the duration of his licensure, or:

(1) Has completed 36 months of progressive postgraduate:

(I) Education as a resident in the United States or Canada in a program approved by the Board, the Accreditation Council for Graduate Medical Education or the Coordinating Council of Medical Education of the Canadian Medical Association; or

(II) Fellowship training in the United States or Canada approved by the Board or the Accreditation Council for Graduate Medical Education; or

(2) Has completed at least 36 months of postgraduate education, not less than 24 months of which must have been completed as a resident after

receiving a medical degree from a combined dental and medical degree program approved by the Board; and

(e) Passes a written or oral examination, or both, as to his qualifications to practice medicine and provides the Board with a description of the clinical program completed demonstrating that the applicant's clinical training met the requirements of paragraph (b).

3. The Board may issue a license to practice medicine after the Board verifies, through any readily available source, that the applicant has complied with the provisions of subsection 2. The verification may include, but is not limited to, using the Federation Credentials Verification Service. If any information is verified by a source other than the primary source of the information, the Board may require subsequent verification of the information by the primary source of the information.

4. Notwithstanding any provision of this chapter to the contrary, if after issuing a license to practice medicine the Board obtains information from a primary or other source of information and that information differs from the information provided by the applicant or otherwise received by the Board, the Board may:

(a) Temporarily suspend the license;

(b) Promptly review the differing information with the Board as a whole or in a committee appointed by the Board;

(c) Declare the license void if the Board or a committee appointed by the Board determines that the information submitted by the applicant was false, fraudulent or intended to deceive the Board;

(d) Refer the applicant to the Attorney General for possible criminal prosecution pursuant to NRS 630.400; or

(e) If the Board temporarily suspends the license, allow the license to return to active status subject to any terms and conditions specified by the Board, including:

(1) Placing the licensee on probation for a specified period with specified conditions;

(2) Administering a public reprimand;

(3) Limiting the practice of the licensee;

(4) Suspending the license for a specified period or until further order of the Board;

(5) Requiring the licensee to participate in a program to correct alcohol or drug dependence or any other impairment;

(6) Requiring supervision of the practice of the licensee;

(7) Imposing an administrative fine not to exceed $5,000;

(8) Requiring the licensee to perform community service without compensation;

(9) Requiring the licensee to take a physical or mental examination or an examination testing his competence to practice medicine;

(10) Requiring the licensee to complete any training or educational requirements specified by the Board; and

(11) Requiring the licensee to submit a corrected application, including the payment of all appropriate fees and costs incident to submitting an application.

5. If the Board determines after reviewing the differing information to allow the license to remain in active status, the action of the Board is not a disciplinary action and must not be reported to any national database. If the Board determines after reviewing the differing information to declare the license void, its action shall be deemed a disciplinary action and shall be reportable to national databases.

Sec. 27. NRS 630.1605 is hereby amended to read as follows:

630.1605 ***1.*** Except as otherwise provided in NRS 630.161, the Board may issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ ***(a)*** At the time the applicant files his application with the Board, the license is in effect;

~~[2.]~~ ***(b)*** The applicant:

~~[(a)]~~ ***(1)*** Submits to the Board proof of passage of an examination approved by the Board;

~~[(b)]~~ ***(2)*** Submits to the Board any documentation and other proof of qualifications required by the Board;

~~[(c)]~~ ***(3)*** Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and

~~[(d)]~~ ***(4)*** Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and

~~[3.]~~ ***(c)*** Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.

2. A license by endorsement to practice medicine may be issued at a meeting of the Board or between its meetings by the President and Executive Director of the Board. Such an action shall be deemed to be an action of the Board.

Sec. 28. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine ***, to practice as a physician assistant or to practice respiratory care*** shall submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. ***Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.***

Sec. 29. NRS 630.167 is hereby amended to read as follows:

630.167 In addition to any other requirements set forth in this chapter, each applicant for a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice respiratory care shall submit

to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. Any fees or costs charged by the Board for this service pursuant to NRS 630.268 are not refundable.

Sec. 30. NRS 630.170 is hereby amended to read as follows:

630.170 In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a medical school located in the United States or Canada shall submit to the Board proof that he has received the degree of doctor of medicine from a medical school which, at the time of graduation, was accredited by the Liaison Committee on Medical Education or the Committee for the Accreditation of Canadian Medical Schools. ***The proof of the degree of doctor of medicine must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school, the Board may accept proof from any other source specified by the Board.***

Sec. 31. NRS 630.173 is hereby amended to read as follows:

630.173 1. In addition to the other requirements for licensure, an applicant for a license to practice medicine shall submit to the Board information describing:

(a) Any claims made against the applicant for malpractice ~~*[within the 10 years immediately preceding the date of the application for the license,]*~~ whether or not a civil action was filed concerning the claim;

(b) Any complaints filed against the applicant with a licensing board of another state ~~*[within the 10 years immediately preceding the date of the application for the license]*~~ and any disciplinary action taken against the applicant by a licensing board of another state; and

(c) Any complaints filed against the applicant with a hospital, clinic or medical facility ~~*[within the 10 years immediately preceding the date of the application for the license]*~~ or any disciplinary action taken against the applicant by a hospital, clinic or medical facility.

2. The Board ***may consider any information specified in subsection 1 that is more than 10 years old if the Board receives the information from the applicant or any other source from which the Board is verifying the information provided by the applicant.***

3. The Board may refuse to consider any information specified in subsection 1 that is more than 10 years old if the Board determines that the claim or complaint is remote or isolated and that obtaining or attempting to obtain a record relating to the information will unreasonably delay the consideration of the application.

4. The Board shall not issue a license to the applicant until it has received all the information required by this section.

Sec. 32. NRS 630.195 is hereby amended to read as follows:

630.195 ***1.*** In addition to the other requirements for licensure, an applicant for a license to practice medicine who is a graduate of a foreign medical school shall submit to the Board proof that he has received:

~~[1.]~~ ***(a)*** The degree of doctor of medicine or its equivalent, as determined by the Board; and

~~[2.]~~ ***(b)*** The standard certificate of the Educational Commission for Foreign Medical Graduates or a written statement from that Commission that he passed the examination given by ~~[it.]~~ ***the Commission.***

2. The proof of the degree of doctor of medicine or its equivalent must be submitted directly to the Board by the medical school that granted the degree. If proof of the degree is unavailable from the medical school that granted the degree, the Board may accept proof from any other source specified by the Board.

Sec. 33. NRS 630.197 is hereby amended to read as follows:

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

(a) An applicant for the issuance of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care shall include the social security number of the applicant in the application submitted to the Board.

(b) An applicant for the issuance or renewal of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

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

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

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

district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 34. NRS 630.197 is hereby amended to read as follows:

630.197 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care shall submit to the Board the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Board shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Board.

3. A license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care may not be issued or renewed by the Board if the applicant:

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

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

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

Sec. 35. NRS 630.200 is hereby amended to read as follows:

630.200 1. The Board may deny an application for a license to practice medicine for any violation of the provisions of this chapter or regulations of the Board.

2. The Board shall notify an applicant of any deficiency which prevents any further action on the application or results in the denial of the application. The applicant may respond in writing to the Board concerning any deficiency and, if he does so, the Board shall respond in writing to the contentions of the applicant.

3. Any unsuccessful applicant may appeal to the ~~[district court to review the action of the]~~ Board ~~[,]~~ if he files his appeal within 90 days ~~[from]~~ ***after*** the date of the rejection of his application by the Board. Upon appeal **,** the applicant has the burden to show that the action of the Board is erroneous **.** ~~[or unlawful.]~~

Sec. 36. NRS 630.258 is hereby amended to read as follows:

630.258 1. A physician who is retired from active practice and who ~~[wishes]~~ ***:***

(a) Wishes to donate his expertise for the medical care and treatment of persons in this State who are indigent, uninsured or unable to afford health care ***; or***

(b) Wishes to provide services for any disaster relief operations conducted by a governmental entity or nonprofit organization,

➥ may obtain a special volunteer medical license by submitting an application to the Board pursuant to this section.

2. An application for a special volunteer medical license must be on a form provided by the Board and must include:

(a) Documentation of the history of medical practice of the physician;

(b) Proof that the physician previously has been issued an unrestricted license to practice medicine in any state of the United States and that he has never been the subject of disciplinary action by a medical board in any jurisdiction;

(c) Proof that the physician satisfies the requirements for licensure set forth in NRS 630.160 or the requirements for licensure by endorsement set forth in NRS 630.1605;

(d) Acknowledgment that the practice of the physician under the special volunteer medical license will be exclusively devoted to providing medical care ~~[to]~~ ***:***

(1) To persons in this State who are indigent, uninsured or unable to afford health care; ***or***

(2) As part of any disaster relief operations conducted by a governmental entity or nonprofit organization; and

(e) Acknowledgment that the physician will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for providing medical care under the special volunteer medical license, except for payment by a medical facility at which the physician provides volunteer medical services of the expenses of the physician for necessary travel, continuing education, malpractice insurance or fees of the State Board of Pharmacy.

3. If the Board finds that the application of a physician satisfies the requirements of subsection 2 and that the retired physician is competent to practice medicine, the Board shall issue a special volunteer medical license to the physician.

4. The initial special volunteer medical license issued pursuant to this section expires 1 year after the date of issuance. The license may be renewed pursuant to this section, and any license that is renewed expires 2 years after the date of issuance.

5. The Board shall not charge a fee for:

(a) The review of an application for a special volunteer medical license; or

(b) The issuance or renewal of a special volunteer medical license pursuant to this section.

6. A physician who is issued a special volunteer medical license pursuant to this section and who accepts the privilege of practicing medicine in this State pursuant to the provisions of the special volunteer medical license is subject to all the provisions governing disciplinary action set forth in this chapter.

7. A physician who is issued a special volunteer medical license pursuant to this section shall comply with the requirements for continuing education adopted by the Board.

Sec. 37. NRS 630.261 is hereby amended to read as follows:

630.261 1. Except as otherwise provided in NRS 630.161, the Board may issue:

(a) A locum tenens license, to be effective not more than 3 months after issuance, to any physician who is licensed and in good standing in another state, who meets the requirements for licensure in this State and who is of good moral character and reputation. The purpose of this license is to enable an eligible physician to serve as a substitute for another physician who is licensed to practice medicine in this State and who is absent from his practice for reasons deemed sufficient by the Board. A license issued pursuant to the provisions of this paragraph is not renewable.

(b) A special license to a licensed physician of another state to come into this State to care for or assist in the treatment of his own patient in association with a physician licensed in this State. A special license issued pursuant to the provisions of this paragraph is limited to the care of a specific patient. The physician licensed in this State has the primary responsibility for the care of that patient.

(c) A restricted license for a specified period if the Board determines the applicant needs supervision or restriction.

(d) A temporary license for a specified period if the physician is licensed and in good standing in another state and meets the requirements for licensure in this State, and if the Board determines that it is necessary in order to provide medical services for a community without adequate medical care. A temporary license issued pursuant to the provisions of this paragraph is not renewable.

(e) A special purpose license to a physician who is licensed in another state to permit the use of equipment that transfers information concerning the medical condition of a patient in this State across state lines electronically, telephonically or by fiber optics **. [**~~if the physician:~~

~~(1) Holds a full and unrestricted license to practice medicine in that state;~~

~~(2) Has not had any disciplinary or other action taken against him by any state or other jurisdiction; and~~

~~(3) Meets the requirements set forth in paragraph (d) of subsection 2 of NRS 630.160.~~**]**

2. ***For the purpose of paragraph (e) of subsection 1, the physician must:***

(a) Hold a full and unrestricted license to practice medicine in another state;

(b) Not have had any disciplinary or other action taken against him by any state or other jurisdiction; and

(c) Be certified by a specialty board of the American Board of Medical Specialties or its successor.

3. Except as otherwise provided in this section, the Board may renew or modify any license issued pursuant to subsection 1.

Sec. 38. NRS 630.262 is hereby amended to read as follows:

630.262 1. Except as otherwise provided in NRS 630.161, the Board may issue ~~[a restricted]~~ ***an authorized facility*** license to a person who intends to practice medicine in this State as a psychiatrist in a mental health center of the Division under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.

2. A person who applies for ~~[a restricted]~~ ***an authorized facility*** license pursuant to this section is not required to take or pass a written examination as to his qualifications to practice medicine pursuant to paragraph (e) of subsection 2 of NRS 630.160, but the person must meet all other conditions and requirements for an unrestricted license to practice medicine pursuant to this chapter.

3. If the Board issues ~~[a restricted]~~ ***an authorized facility*** license pursuant to this section, the person who holds the ~~[restricted]~~ license may practice medicine in this State only as a psychiatrist in a mental health center of the Division and only under the direct supervision of a psychiatrist who holds an unrestricted license to practice medicine pursuant to this chapter.

4. If a person who holds ~~[a restricted]~~ ***an authorized facility*** license issued pursuant to this section ceases to practice medicine in this State as a psychiatrist in a mental health center of the Division:

(a) The Division shall notify the Board; and

(b) Upon receipt of ~~[such]~~ ***the*** notification, the ~~[restricted]~~ ***authorized facility*** license expires automatically.

5. The Board may renew or modify ~~[a restricted]~~ ***an authorized facility*** license issued pursuant to this section, unless the ~~[restricted]~~ license has expired automatically or has been revoked.

6. The provisions of this section do not limit the authority of the Board to issue a ~~[restricted]~~ license to an applicant in accordance with any other provision of this chapter.

7. As used in this section:

(a) "Division" means the Division of Mental Health and Developmental Services of the Department of Health and Human Services.

(b) "Mental health center" has the meaning ascribed to it in NRS 433.144.

Sec. 39. NRS 630.268 is hereby amended to read as follows:

630.268 1. The Board shall charge and collect not more than the following fees:

For application for and issuance of a license to practice as a physician, including a license by endorsement $600
For application for and issuance of a temporary, locum tenens, limited, ~~[restricted,]~~ special or special purpose license 400
For renewal of a limited ~~[, restricted]~~ or special license 400
For application for and issuance of a license as a physician assistant 400
For biennial registration of a physician assistant 800
For biennial registration of a physician 800
For application for and issuance of a license as a ***perfusionist or*** practitioner of respiratory care 400
For biennial renewal of a license as a perfusionist 600
For biennial registration of a practitioner of respiratory care 600
For biennial registration for a physician who is on inactive status $400
For written verification of licensure 50
For a duplicate identification card 25
For a duplicate license 50
For computer printouts or labels 500
For verification of a listing of physicians, per hour 20
For furnishing a list of new physicians 100

2. In addition to the fees prescribed in subsection 1, the Board shall charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides.

3. The cost of any special meeting called at the request of a licensee, an institution, an organization, a state agency or an applicant for licensure must be paid for by the person or entity requesting the special meeting. Such a special meeting must not be called until the person or entity requesting it has paid a cash deposit with the Board sufficient to defray all expenses of the meeting.

Sec. 40. NRS 630.277 is hereby amended to read as follows:

630.277 1. Every person who wishes to practice respiratory care in this State must:

(a) Have a high school diploma or general equivalency diploma;

(b) Complete an educational program for respiratory care which has been approved by the ~~[National Board]~~ ***Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation*** for Respiratory Care or its successor organization;

(c) Pass the examination as an entry-level or advanced practitioner of respiratory care administered by the ~~[National Board]~~ ***Commission on Accreditation of Allied Health Education Programs or its successor organization or the Committee on Accreditation*** for Respiratory Care or its successor organization;

(d) Be certified by the ~~[National Board]~~ ***Commission on Accreditation of Allied Health Education Programs or its successor organization or the***

Committee on Accreditation for Respiratory Care or its successor organization; and

(e) Be licensed to practice respiratory care by the Board and have paid the required fee for licensure.

2. Except as otherwise provided in subsection 3, a person shall not:

(a) Practice respiratory care; or

(b) Hold himself out as qualified to practice respiratory care,

➥ in this State without complying with the provisions of subsection 1.

3. Any person who has completed the educational requirements set forth in paragraphs (a) and (b) of subsection 1 may practice respiratory care pursuant to a program of practical training as an intern in respiratory care for not more than 12 months after completing those educational requirements.

Sec. 41. NRS 630.299 is hereby amended to read as follows:

630.299 1. If the Board has reason to believe that a person has violated ~~[,]~~ ***or*** is violating ~~[or is about to violate]~~ any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board has initiated any disciplinary proceedings against the person.

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated ~~[,]~~ ***or is violating*** ~~[or is about to violate]~~ ***any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:***

(a) Address each violation of this chapter that is at issue; and

(b) Remediate or improve the practice of the person relating to those violations.

4. A remediation agreement, if approved by an investigative committee of the Board, must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is

removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.

5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation agreement was negotiated may take any action it deems appropriate, including, without limitation, initiating disciplinary proceedings against the person.

6. The Board shall adopt regulations to carry out the provisions of this section.

Sec. 42. NRS 630.306 is hereby amended to read as follows:

630.306 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Inability to practice medicine with reasonable skill and safety because of illness, a mental or physical condition or the use of alcohol, drugs, narcotics or any other substance.

2. Engaging in any conduct:

(a) Which is intended to deceive;

(b) Which the Board has determined is a violation of the standards of practice established by regulation of the Board; or

(c) Which is in violation of a regulation adopted by the State Board of Pharmacy.

3. Administering, dispensing or prescribing any controlled substance, or any dangerous drug as defined in chapter 454 of NRS, to or for himself or to others except as authorized by law.

4. Performing, assisting or advising the injection of any substance containing liquid silicone into the human body, except for the use of silicone oil to repair a retinal detachment.

5. Practicing or offering to practice beyond the scope permitted by law or performing services which the licensee knows or has reason to know that he is not competent to perform ~~[.]~~ ***or which are beyond the scope of his training.***

6. Performing, without first obtaining the informed consent of the patient or his family, any procedure or prescribing any therapy which by the current standards of the practice of medicine is experimental.

7. Continual failure to exercise the skill or diligence or use the methods ordinarily exercised under the same circumstances by physicians in good standing practicing in the same specialty or field.

8. Making or filing a report which the licensee or applicant knows to be false or failing to file a record or report as required by law or regulation.

9. Failing to comply with the requirements of NRS 630.254.

10. Habitual intoxication from alcohol or dependency on controlled substances.

11. Failure by a licensee or applicant to report in writing, within 30 days, any disciplinary action taken against him by another state, the Federal Government or a foreign country, including, without limitation, the revocation, suspension or surrender of his license to practice medicine in another jurisdiction.

12. Failure to be found competent to practice medicine as a result of an examination to determine medical competency pursuant to NRS 630.318.

13. Failure by a licensee or applicant to report in writing, within 30 days, any criminal action taken or conviction obtained against him in this State or any other state or by the Federal Government, a branch of the Armed Forces of the United States or any local or federal jurisdiction of a foreign country.

14. Engaging in any act that is unsafe ~~*[, unsound,]*~~ ***or unprofessional*** ~~*[or contrary to the public interest.]*~~ ***conduct in accordance with regulations adopted by the Board.***

15. Violating a provision of a remediation agreement approved by the Board pursuant to NRS 630.299.

Sec. 43. NRS 630.3062 is hereby amended to read as follows:

630.3062 The following acts, among others, constitute grounds for initiating disciplinary action or denying licensure:

1. Failure to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

2. Altering medical records of a patient.

3. Making or filing a report which the licensee knows to be false, failing to file a record or report as required by law or willfully obstructing or inducing another to obstruct such filing.

4. Failure to make the medical records of a patient available for inspection and copying as provided in NRS 629.061.

5. Failure to comply with the requirements of NRS 630.3068.

6. Failure to report any person the licensee knows, or has reason to know, is in violation of the provisions of this chapter or the regulations of the Board ~~[.]~~ ***within 30 days after the date the licensee knows or has reason to know of the violation.***

Sec. 44. NRS 630.307 is hereby amended to read as follows:

630.307 1. ***Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, physician assistant or practitioner of respiratory care on a form provided by the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the***

complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any ~~[person,]~~ ***licensee,*** medical school or medical facility that becomes aware that a person practicing medicine or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

~~[2.]~~ ***3.*** Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in ~~[a physician's]~~ ***the*** privileges ***of a physician, physician assistant or practitioner of respiratory care*** to practice ~~[medicine]~~ while the physician ***, physician assistant or practitioner of respiratory care*** is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician ***, physician assistant or practitioner of respiratory care*** concerning the care of a patient or the competency of the physician ***, physician assistant or practitioner of respiratory care*** within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

~~[3.]~~ ***4.*** The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

~~[4.]~~ ***5.*** On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection ~~[3.]~~ ***4.***

Sec. 45. NRS 630.307 is hereby amended to read as follows:

630.307 1. Except as otherwise provided in subsection 2, any person may file with the Board a complaint against a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care on a form provided by

the Board. The form may be submitted in writing or electronically. If a complaint is submitted anonymously, the Board may accept the complaint but may refuse to consider the complaint if the lack of the identity of the complainant makes processing the complaint impossible or unfair to the person who is the subject of the complaint.

2. Any licensee, medical school or medical facility that becomes aware that a person practicing medicine ***, perfusion*** or respiratory care in this State has, is or is about to become engaged in conduct which constitutes grounds for initiating disciplinary action shall file a written complaint with the Board within 30 days after becoming aware of the conduct.

3. Any hospital, clinic or other medical facility licensed in this State, or medical society, shall report to the Board any change in the privileges of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care to practice while the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care is under investigation and the outcome of any disciplinary action taken by that facility or society against the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care concerning the care of a patient or the competency of the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care within 30 days after the change in privileges is made or disciplinary action is taken. The Board shall report any failure to comply with this subsection by a hospital, clinic or other medical facility licensed in this State to the Health Division of the Department of Health and Human Services. If, after a hearing, the Health Division determines that any such facility or society failed to comply with the requirements of this subsection, the Division may impose an administrative fine of not more than $10,000 against the facility or society for each such failure to report. If the administrative fine is not paid when due, the fine must be recovered in a civil action brought by the Attorney General on behalf of the Division.

4. The clerk of every court shall report to the Board any finding, judgment or other determination of the court that a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care:

(a) Is mentally ill;

(b) Is mentally incompetent;

(c) Has been convicted of a felony or any law governing controlled substances or dangerous drugs;

(d) Is guilty of abuse or fraud under any state or federal program providing medical assistance; or

(e) Is liable for damages for malpractice or negligence,

➥ within 45 days after such a finding, judgment or determination is made.

5. On or before January 15 of each year, the clerk of each court shall submit to the Office of Court Administrator created pursuant to NRS 1.320 a written report compiling the information that the clerk reported during the previous year to the Board regarding physicians pursuant to paragraph (e) of subsection 4.

Sec. 46. NRS 630.309 is hereby amended to read as follows:

630.309 To institute a disciplinary action against a ***perfusionist,*** physician assistant or practitioner of respiratory care, a written complaint, specifying the charges, must be filed with the Board by:

1. The Board or a committee designated by the Board to investigate a complaint;

2. Any member of the Board; or

3. Any other person who is aware of any act or circumstance constituting a ground for disciplinary action set forth in the regulations adopted by the Board.

Sec. 47. NRS 630.311 is hereby amended to read as follows:

630.311 1. A committee designated by the Board and consisting of members of the Board shall review each complaint and conduct an investigation to determine if there is a reasonable basis for the complaint. The committee must be composed of at least three members of the Board, at least one of whom is ~~[qualified pursuant to subsection 2 of NRS 630.060.]~~ ***not a physician.*** The committee may issue orders to aid its investigation including, but not limited to, compelling a physician to appear before the committee.

2. If, after conducting an investigation, the committee determines that there is a reasonable basis for the complaint and that a violation of any provision of this chapter has occurred, the committee may file a formal complaint with the Board.

3. The proceedings of the committee are confidential and are not subject to the requirements of NRS 241.020. Within 20 days after the conclusion of each meeting of the committee, the Board shall publish a summary setting forth the proceedings and determinations of the committee. The summary must not identify any person involved in the complaint that is the subject of the proceedings.

Sec. 48. NRS 630.318 is hereby amended to read as follows:

630.318 1. If the Board or any investigative committee of the Board has reason to believe that the conduct of any physician has raised a reasonable question as to his competence to practice medicine with reasonable skill and safety to patients, or if the Board has received a report pursuant to the provisions of NRS 630.3067, 630.3068, 690B.250 or 690B.260 indicating that a judgment has been rendered or an award has been made against a physician regarding an action or claim for malpractice or that such an action or claim against the physician has been resolved by settlement, it may order that the physician undergo a mental or physical examination or an examination testing his competence to practice medicine by physicians or other examinations designated by the Board to assist the Board or committee in determining the fitness of the physician to practice medicine.

2. For the purposes of this section:

(a) Every physician who applies for a license or who is licensed under this chapter shall be deemed to have given his consent to submit to a mental or physical examination or an examination testing his competence to practice medicine when ordered to do so in writing by the Board ~~[.]~~ ***or an investigative committee of the Board.***

(b) The testimony or reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician licensed under this chapter to submit to an examination when directed as provided in this section constitutes an admission of the charges against him.

Sec. 49. NRS 630.326 is hereby amended to read as follows:

630.326 ***1. If an investigation by the Board regarding a physician, physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the physician, physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may summarily suspend the license of the physician, physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.***

2. If the Board issues an order summarily suspending the license of a physician, physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the completion of the investigation by the Board.

3. If the Board issues an order suspending the license of a physician ***, physician assistant or practitioner of respiratory care*** pending proceedings for disciplinary action and requires the physician ***, physician assistant or practitioner of respiratory care*** to submit to a mental or physical examination or an examination testing his competence to practice ***,*** ~~[medicine,]~~ the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 50. NRS 630.326 is hereby amended to read as follows:

630.326 1. If an investigation by the Board regarding a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care reasonably determines that the health, safety or welfare of the public or any patient served by the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care is at risk of imminent or continued harm, the Board may summarily suspend the license of the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care. The order of summary suspension may be issued by the Board, an investigative committee of the Board or the Executive Director of the Board after consultation with the President, Vice President or Secretary-Treasurer of the Board.

2. If the Board issues an order summarily suspending the license of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care pursuant to subsection 1, the Board shall hold a hearing regarding the matter not later than 45 days after the completion of the investigation by the Board.

3. If the Board issues an order suspending the license of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care pending proceedings for disciplinary action and requires the physician, ***perfusionist,*** physician assistant or practitioner of respiratory care to submit to a mental or physical examination or an examination testing his competence to practice, the examination must be conducted and the results obtained not later than 60 days after the Board issues its order.

Sec. 51. NRS 630.329 is hereby amended to read as follows:

630.329 If the Board issues an order suspending the license of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care pending proceedings for disciplinary action, the court shall not stay that order.

Sec. 52. NRS 630.336 is hereby amended to read as follows:

630.336 1. Any deliberations conducted or vote taken by the Board or any investigative committee of the Board regarding its ordering of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care to undergo a physical or mental examination or any other examination designated to assist the Board or committee in determining the fitness of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care are not subject to the requirements of NRS 241.020.

2. Except as otherwise provided in subsection 3 or 4, all applications for a license to practice medicine ***, perfusion*** or respiratory care, any charges filed by the Board, financial records of the Board, formal hearings on any charges heard by the Board or a panel selected by the Board, records of such hearings and any order or decision of the Board or panel must be open to the public.

3. Except as otherwise provided in NRS 239.0115, the following may be kept confidential:

(a) Any statement, evidence, credential or other proof submitted in support of or to verify the contents of an application;

(b) Any report concerning the fitness of any person to receive or hold a license to practice medicine ***, perfusion*** or respiratory care; and

(c) Any communication between:

(1) The Board and any of its committees or panels; and

(2) The Board or its staff, investigators, experts, committees, panels, hearing officers, advisory members or consultants and counsel for the Board.

4. Except as otherwise provided in subsection 5 and NRS 239.0115, a complaint filed with the Board pursuant to NRS 630.307, all documents and other information filed with the complaint and all documents and other information compiled as a result of an investigation conducted to determine whether to initiate disciplinary action are confidential.

5. The complaint or other document filed by the Board to initiate disciplinary action and all documents and information considered by the Board when determining whether to impose discipline are public records.

6. This section does not prevent or prohibit the Board from communicating or cooperating with any other licensing board or agency or any agency which is investigating a licensee, including a law enforcement agency. Such cooperation may include, without limitation, providing the board or agency with minutes of a closed meeting, transcripts of oral examinations and the results of oral examinations.

Sec. 53. NRS 630.339 is hereby amended to read as follows:

630.339 1. If a committee designated by the Board to conduct an investigation of a complaint decides to proceed with disciplinary action, it shall bring charges against the licensee ~~[. If charges are brought, the Board shall fix a time and place for a formal hearing.]~~ ***by filing a formal complaint. The formal complaint must include a written statement setting forth the charges alleged and setting forth in concise and plain language each act or omission of the respondent upon which the charges are based. The formal complaint must be prepared with sufficient clarity to ensure that the respondent is able to prepare his defense. The formal complaint must specify any applicable law or regulation that the respondent is alleged to have violated. The formal complaint may be signed by the chairman of the investigative committee or the Executive Director of the Board acting in his official capacity.***

2. The respondent shall file an answer to the formal complaint within 20 days after service of the complaint upon the respondent. The answer must state in concise and plain language the respondent's defenses to each charge set forth in the complaint and must admit or deny the averments stated in the complaint. If a party fails to file an answer within the time prescribed, he shall be deemed to have denied generally the allegations of the formal complaint.

3. Within 20 days after the filing of the answer, the parties shall hold an early case conference at which the parties and the hearing officer appointed by the Board or a member of the Board must preside. At the early case conference, the parties shall in good faith:

(a) Set the earliest possible hearing date agreeable to the parties and the hearing officer, panel of the Board or the Board, including the estimated duration of the hearing;

(b) Set dates:

(1) By which all documents must be exchanged;

(2) By which all prehearing motions and responses thereto must be filed;

(3) On which to hold the prehearing conference; and

(4) For any other foreseeable actions that may be required for the matter;

(c) Discuss or attempt to resolve all or any portion of the evidentiary or legal issues in the matter;

(d) Discuss the potential for settlement of the matter on terms agreeable to the parties; and

(e) Discuss and deliberate any other issues that may facilitate the timely and fair conduct of the matter.

4. If the Board receives a report pursuant to subsection 5 of NRS 228.420, such a hearing must be held within 30 days after receiving the report. The Board shall notify the licensee of the charges brought against him, the time and place set for the hearing, and the possible sanctions authorized in NRS 630.352.

~~[2.]~~ ***5. A formal hearing must be held at the time and date set at the early case conference by:***

(a) The Board ~~[, a]~~ ***;***

(b) A hearing officer ~~[or a]~~ ***;***

(c) A member of the Board designated by the Board or an investigative committee of the Board;

(d) A panel of ~~[its]~~ members ***of the Board*** designated by ~~[the Board shall hold the formal hearing on the charges at the time and place designated in the notification.]~~ ***an investigative committee of the Board or the Board;***

(e) A hearing officer together with not more than one member of the Board designated by an investigative committee of the Board or the Board; or

(f) A hearing officer together with a panel of members of the Board designated by an investigative committee of the Board or the Board. If the hearing is before a panel, at least one member of the ~~[Board who is]~~ ***panel must*** not ***be*** a physician ***.*** ~~[must participate in this hearing.]~~

6. At any hearing at which at least one member of the Board presides, whether in combination with a hearing officer or other members of the Board, the final determinations regarding credibility, weight of evidence and whether the charges have been proven must be made by the members of the Board. If a hearing officer presides together with one or more members of the Board, the hearing officer shall:

(a) Conduct the hearing;

(b) In consultation with each member of the Board, make rulings upon any objections raised at the hearing;

(c) In consultation with each member of the Board, make rulings concerning any motions made during or after the hearing; and

(d) Within 30 days after the conclusion of the hearing, prepare and file with the Board written findings of fact and conclusions of law in accordance with the determinations made by each member of the Board.

Sec. 54. NRS 630.342 is hereby amended to read as follows:

630.342 1. Any ~~[physician]~~ ***licensee*** against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[physician's]~~ ***licensee's*** receipt of notification of the initiation of the

disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The willful failure of a ~~[~~physician~~]~~ ***licensee*** to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[~~physician.~~]~~ ***licensee.***

3. The Board has additional grounds for initiating disciplinary action against a ~~[~~physician~~]~~ ***licensee*** if the report from the Federal Bureau of Investigation indicates that the ~~[~~physician~~]~~ ***licensee*** has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 630.301 to 630.3066, inclusive; or

(b) A violation of NRS 630.400.

Sec. 54.5. **NRS 630.346 is hereby amended to read as follows:**

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because he was or is incompetent. ***Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.***

2. Proof of actual injury need not be established.

3. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine or respiratory care is conclusive evidence of its occurrence.

Sec. 55. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence and a witness must not be barred from testifying solely because he was or is incompetent. Any fact that is the basis of a finding, conclusion or ruling must be based upon the reliable, probative and substantial evidence on the whole record of the matter.

2. Proof of actual injury need not be established.

3. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine ***, perfusion*** or respiratory care is conclusive evidence of its occurrence.

Sec. 56. (Deleted by amendment.)

Sec. 57. NRS 630.352 is hereby amended to read as follows:

630.352 1. Any member of the Board, ~~[~~except for an advisory~~]~~ ***other than a member of an investigative committee of the Board who participated in any determination regarding a formal complaint in the matter or any*** member serving on a panel of the Board ***at the*** hearing ~~[~~charges,~~]~~ ***of the matter,*** may participate in ***an adjudication to obtain*** the final order of the Board. ~~[~~If the Board, after a formal hearing, determines from a

~~preponderance of the evidence that a violation of the provisions of this chapter or of the regulations of the Board has occurred, it shall issue and serve on the physician charged an order, in writing, containing its findings and any sanctions.~~

~~2.~~**]** ***At the adjudication, the Board shall consider any findings of fact and conclusions of law submitted after the hearing and shall allow:***

(a) Counsel for the Board to present a disciplinary recommendation and argument in support of the disciplinary recommendation;

(b) The respondent or his counsel to present a disciplinary recommendation and argument in support of the disciplinary recommendation; and

(c) The complainant in the matter to make a statement to the Board regarding the disciplinary recommendations by the parties and to address the effect of the respondent's conduct upon the complainant or the patient involved, if other than the complainant.

➥ The Board may limit the time within which the parties and the complainant may make their arguments and statements.

2. At the conclusion of the presentations of the parties and the complainant, the Board shall deliberate and may by a majority vote impose discipline based upon the findings of fact and conclusions of law and the presentations of the parties and the complainant.

3. If ***, in the findings of fact and conclusions of law, the Board, hearing officer or panel of*** the Board determines that no violation has occurred, **[**~~it~~**]** ***the Board*** shall dismiss the charges, in writing, and notify the **[**~~physician~~**]** ***respondent*** that the charges have been dismissed. **[**~~If the disciplinary proceedings were instituted against the physician as a result of a complaint filed against him, the Board may provide the physician with a copy of the complaint.~~

~~3.~~**]** ***4.*** Except as otherwise provided in subsection **[**~~4,~~**]** ***5,*** if the Board finds that a violation has occurred, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period on any of the conditions specified in the order;

(b) Administer to him a ***written*** public reprimand;

(c) Limit his practice or exclude one or more specified branches of medicine from his practice;

(d) Suspend his license for a specified period or until further order of the Board;

(e) Revoke his license ***;*** **[**~~to practice medicine, but only in accordance with the provisions of NRS 630.348;~~**]**

(f) Require him to participate in a program to correct alcohol or drug dependence or any other impairment;

(g) Require supervision of his practice;

(h) Impose a fine not to exceed $5,000 **[**~~;~~**]** ***for each violation;***

(i) Require him to perform community service without compensation;

(j) Require him to take a physical or mental examination or an examination testing his competence; and

(k) Require him to fulfill certain training or educational requirements.

~~[4.]~~ ***5.*** If the Board finds that the ~~[physician]~~ ***respondent*** has violated the provisions of NRS 439B.425, the Board shall suspend his license for a specified period or until further order of the Board.

~~[5.]~~ ***6.*** The Board shall not administer a private reprimand if the Board finds that a violation has occurred.

~~[6.]~~ ***7. Within 30 days after the hearing before the Board, the Board shall issue a final order, certified by the Secretary-Treasurer of the Board, that imposes discipline and incorporates the findings of fact and conclusions of law obtained from the hearing.*** An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 58. NRS 630.356 is hereby amended to read as follows:

630.356 1. Any person aggrieved by a final order of the Board is entitled to judicial review of the Board's order.

2. Every order that imposes a sanction against a licensee pursuant to subsection ~~[3]~~ ***4*** or ~~[4]~~ ***5*** of NRS 630.352 or any regulation of the Board is effective from the date the Secretary-Treasurer certifies the order until the date the order is modified or reversed by a final judgment of the court. The court shall not stay the order of the Board pending a final determination by the court.

3. The district court shall give a petition for judicial review of the Board's order priority over other civil matters which are not expressly given priority by law.

Sec. 59. NRS 630.358 is hereby amended to read as follows:

630.358 1. Any person:

(a) Whose practice of medicine ***, perfusion*** or respiratory care has been limited; or

(b) Whose license to practice medicine ***, perfusion*** or respiratory care has been:

(1) Suspended until further order; or

(2) Revoked,

➥ by an order of the Board, may apply to the Board for removal of the limitation or restoration of his license.

2. In hearing the application, the Board:

(a) May require the person to submit to a mental or physical examination or an examination testing his competence to practice medicine ***, perfusion*** or respiratory care by physicians ***, perfusionists*** or practitioners of respiratory care, as appropriate, or other examinations it designates and submit such other evidence of changed conditions and of fitness as it deems proper;

(b) Shall determine whether under all the circumstances the time of the application is reasonable; and

(c) May deny the application or modify or rescind its order as it deems the evidence and the public safety warrants.

3. The licensee has the burden of proving by clear and convincing evidence that the requirements for restoration of the license or removal of the limitation have been met.

4. The Board shall not restore a license unless it is satisfied that the person has complied with all of the terms and conditions set forth in the final order of the Board and that the person is capable of practicing medicine or respiratory care in a safe manner.

5. To restore a license that has been revoked by the Board, the applicant must apply for a license and take an examination as though he had never been licensed under this chapter.

Sec. 60. NRS 630.366 is hereby amended to read as follows:

630.366 1. If the Board receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care, the Board shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Board receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Board shall reinstate a license to practice medicine, to practice as a ***perfusionist, to practice as a*** physician assistant or to practice as a practitioner of respiratory care that has been suspended by a district court pursuant to NRS 425.540 if the Board receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 61. NRS 630.388 is hereby amended to read as follows:

630.388 1. In addition to any other remedy provided by law, the Board, through its President or Secretary-Treasurer or the Attorney General, may apply to any court of competent jurisdiction:

(a) To enjoin any prohibited act or other conduct of a licensee which is harmful to the public;

(b) To enjoin any person who is not licensed under this chapter from practicing medicine ***, perfusion*** or respiratory care;

(c) To limit the practice of a physician, ***perfusionist,*** physician assistant or practitioner of respiratory care, or suspend his license to practice; ~~[or]~~

(d) To enjoin the use of the title "P.A.," "P.A.-C," "R.C.P." or any other word, combination of letters or other designation intended to imply or designate a person as a physician assistant or practitioner of respiratory care,

when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute ~~[.]~~ ***; or***

(e) To enjoin the use of the title "L.P.," "T.L.P.," "licensed perfusionist," "temporarily licensed perfusionist" or any other word, combination of letters or other designation intended to imply or designate a person as a perfusionist, when not licensed by the Board pursuant to this chapter, unless the use is otherwise authorized by a specific statute.

2. The court in a proper case may issue a temporary restraining order or a preliminary injunction for the purposes set forth in subsection 1:

(a) Without proof of actual damage sustained by any person;

(b) Without relieving any person from criminal prosecution for engaging in the practice of medicine ***, perfusion or respiratory care*** without a license; and

(c) Pending proceedings for disciplinary action by the Board.

Sec. 62. NRS 630.390 is hereby amended to read as follows:

630.390 In seeking injunctive relief against any person for an alleged violation of this chapter by practicing medicine ***, perfusion*** or respiratory care without a license, it is sufficient to allege that he did, upon a certain day, and in a certain county of this State, engage in the practice of medicine ***, perfusion*** or respiratory care without having a license to do so, without alleging any further or more particular facts concerning the same.

Sec. 63. NRS 630.400 is hereby amended to read as follows:

630.400 A person who:

1. Presents to the Board as his own the diploma, license or credentials of another;

2. Gives either false or forged evidence of any kind to the Board;

3. Practices medicine ***, perfusion*** or respiratory care under a false or assumed name or falsely personates another licensee;

4. Except as otherwise provided by ***a*** specific statute, practices medicine ***, perfusion*** or respiratory care without being licensed under this chapter;

5. Holds himself out as a physician assistant or uses any other term indicating or implying that he is a physician assistant without being licensed by the Board; or

6. Holds himself out as a practitioner of respiratory care or uses any other term indicating or implying that he is a practitioner of respiratory care without being licensed by the Board,

➥ is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 64. NRS 630A.090 is hereby amended to read as follows:

630A.090 1. This chapter does not apply to:

(a) The practice of dentistry, chiropractic, Oriental medicine, podiatry, optometry, ***perfusion,*** respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Licensed or certified nurses in the discharge of their duties as nurses.

(d) Homeopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to any physician licensed in this State, and who are legally qualified to practice in the state or country where they reside.

2. This chapter does not repeal or affect any statute of Nevada regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in case of emergency.

(b) The domestic administration of family remedies.

4. This chapter does not authorize a homeopathic physician to practice medicine, including allopathic medicine, except as otherwise provided in NRS 630A.040.

Sec. 65. NRS 632.472 is hereby amended to read as follows:

632.472 1. The following persons shall report in writing to the Executive Director of the Board any conduct of a licensee or holder of a certificate which constitutes a violation of the provisions of this chapter:

(a) Any physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, nursing assistant, ***perfusionist,*** physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, alcohol or drug abuse counselor, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State.

(b) Any personnel of a medical facility or facility for the dependent engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a medical facility or facility for the dependent upon notification by a member of the staff of the facility.

(c) A coroner.

(d) Any person who maintains or is employed by an agency to provide personal care services in the home.

(e) Any person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(f) Any person who maintains or is employed by an agency to provide nursing in the home.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect or exploitation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Any social worker.

2. Every physician who, as a member of the staff of a medical facility or facility for the dependent, has reason to believe that a nursing assistant has engaged in conduct which constitutes grounds for the denial, suspension or revocation of a certificate shall notify the superintendent, manager or other person in charge of the facility. The superintendent, manager or other person in charge shall make a report as required in subsection 1.

3. A report may be filed by any other person.

4. Any person who in good faith reports any violation of the provisions of this chapter to the Executive Director of the Board pursuant to this section is immune from civil liability for reporting the violation.

5. As used in this section, "agency to provide personal care services in the home" has the meaning ascribed to it in NRS 449.0021.

Sec. 66. Chapter 633 of NRS is hereby amended by adding thereto the provisions set forth as sections 67 and 68 of this act.

Sec. 67. ***1. If the Board has reason to believe that a person has violated*** ~~*[,]*~~ ***or is violating*** ~~*[or is about to violate]*~~ ***any provision of this chapter, the Board or any investigative committee of the Board may issue to the person a letter of warning, a letter of concern or a nonpunitive admonishment at any time before the Board initiates any disciplinary proceedings against the person.***

2. The issuance of such a letter or admonishment:

(a) Does not preclude the Board from initiating any disciplinary proceedings against the person or taking any disciplinary action against the person based on any conduct alleged or described in the letter or admonishment or any other conduct; and

(b) Does not constitute a final decision of the Board and is not subject to judicial review.

3. In addition to any action taken pursuant to subsection 1, if the Board has reason to believe that a person has violated or is violating any provision of this chapter, the Board or any investigative committee of the Board may negotiate a remediation agreement with the person. The remediation agreement must include, for each violation, a statement specifying each provision of this chapter or regulation adopted pursuant to this chapter that the Board has reason to believe that the person has violated or is violating. The remediation agreement must also set forth the terms and conditions specified by the Board or an investigative committee, including, without limitation, provisions that:

(a) Address each violation of this chapter that is at issue; and

(b) Remediate or improve the practice of the person relating to those violations.

4. A remediation agreement that is negotiated by an investigative committee of the Board must be presented to the Board for approval. Any remediation agreement presented to the Board pursuant to this subsection is a public record. The Board shall ensure that all identifying information regarding each person who is subject to the remediation agreement is removed. The remediation agreement becomes effective immediately upon approval of the remediation agreement by the Board. If the Board does not approve the remediation agreement, the Board shall refer the matter to the investigative committee that presented the remediation agreement to the Board. The investigative committee may further proceed with the matter as it deems appropriate.

5. A remediation agreement entered into pursuant to this section does not constitute disciplinary action against any person who is subject to the remediation agreement and is not reportable to any national database. If the person violates a provision of the remediation agreement, the Board or the investigative committee of the Board with whom the remediation agreement was negotiated may take any action it deems appropriate, including, without limitation, initiating disciplinary proceedings against the person.

6. The Board shall adopt regulations to carry out the provisions of this section.

Sec. 68. ***In any disciplinary proceedings conducted pursuant to this chapter, the standard of proof is a preponderance of the evidence.***

Sec. 69. NRS 633.131 is hereby amended to read as follows:

633.131 1. "Unprofessional conduct" includes:

(a) Willfully making a false or fraudulent statement or submitting a forged or false document in applying for a license to practice osteopathic medicine or in applying for renewal of a license to practice osteopathic medicine.

(b) Failure of a licensee of the practice of osteopathic medicine to designate his school of practice in the professional use of his name by the term D.O., osteopathic physician, doctor of osteopathy or a similar term.

(c) Directly or indirectly giving to or receiving from any person, corporation or other business organization any fee, commission, rebate or other form of compensation for sending, referring or otherwise inducing a person to communicate with an osteopathic physician in his professional capacity or for any professional services not actually and personally rendered, except as otherwise provided in subsection 2.

(d) Employing, directly or indirectly, any suspended or unlicensed person in the practice of osteopathic medicine, or the aiding or abetting of any unlicensed person to practice osteopathic medicine.

(e) Advertising the practice of osteopathic medicine in a manner which does not conform to the guidelines established by regulations of the Board.

(f) Engaging in any:

(1) Professional conduct which is intended to deceive or which the Board by regulation has determined is unethical; or

(2) Medical practice harmful to the public or any conduct detrimental to the public health, safety or morals which does not constitute gross or repeated malpractice or professional incompetence.

(g) Administering, dispensing or prescribing any controlled substance or any dangerous drug as defined in chapter 454 of NRS, otherwise than in the course of legitimate professional practice or as authorized by law.

(h) Habitual drunkenness or habitual addiction to the use of a controlled substance.

(i) Performing, assisting in or advising an unlawful abortion or the injection of any liquid silicone substance into the human body ~~[.]~~ ***, other than the use of silicone oil to repair a retinal detachment.***

(j) Willful disclosure of a communication privileged pursuant to a statute or court order.

(k) Willful disobedience of the regulations of the State Board of Health, the State Board of Pharmacy or the State Board of Osteopathic Medicine.

(l) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any prohibition made in this chapter.

(m) Failure of a licensee to maintain timely, legible, accurate and complete medical records relating to the diagnosis, treatment and care of a patient.

(n) Making alterations to the medical records of a patient that the licensee knows to be false.

(o) Making or filing a report which the licensee knows to be false.

(p) Failure of a licensee to file a record or report as required by law, or willfully obstructing or inducing any person to obstruct such filing.

(q) Failure of a licensee to make medical records of a patient available for inspection and copying as provided by NRS 629.061.

2. It is not unprofessional conduct:

(a) For persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to practice osteopathic medicine in partnership under a partnership agreement or in a corporation or an association authorized by law, or to pool, share, divide or apportion the fees and money received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association;

(b) For two or more persons holding valid licenses to practice osteopathic medicine issued pursuant to this chapter to receive adequate compensation for concurrently rendering professional care to a patient and dividing a fee if the patient has full knowledge of this division and if the division is made in proportion to the services performed and the responsibility assumed by each; or

(c) For a person licensed to practice osteopathic medicine pursuant to the provisions of this chapter to form an association or other business relationship with an optometrist pursuant to the provisions of NRS 636.373.

Sec. 70. NRS 633.171 is hereby amended to read as follows:

633.171 1. This chapter does not apply to:

(a) The practice of medicine ***or perfusion*** pursuant to chapter 630 of NRS, dentistry, chiropractic, podiatry, optometry, respiratory care, faith or Christian Science healing, nursing, veterinary medicine or fitting hearing aids.

(b) A medical officer of the Armed Services or a medical officer of any division or department of the United States in the discharge of his official duties.

(c) Osteopathic physicians who are called into this State, other than on a regular basis, for consultation or assistance to a physician licensed in this State, and who are legally qualified to practice in the state where they reside.

2. This chapter does not repeal or affect any law of this State regulating or affecting any other healing art.

3. This chapter does not prohibit:

(a) Gratuitous services of a person in cases of emergency.

(b) The domestic administration of family remedies.

Sec. 71. NRS 633.322 is hereby amended to read as follows:

633.322 In addition to the other requirements for licensure to practice osteopathic medicine, an applicant shall cause to be submitted to the Board ~~[a]~~ ***:***

1. A certificate of completion of progressive postgraduate training from the residency program where the applicant received training ~~[.]~~ ***; and***

2. If applicable, proof of satisfactory completion of a postgraduate training program specified in paragraph (c) of subsection 4 of NRS 633.311 within 120 days after the scheduled completion of the program.

Sec. 72. NRS 633.331 is hereby amended to read as follows:

633.331 1. Examinations ~~[must]~~ ***may*** be held ~~[at least]~~ once a year at the time and place fixed by the Board. The Board shall notify each applicant in writing of the examinations.

2. The examination must be fair and impartial, practical in character, and the questions must be designed to discover the applicant's fitness.

3. The Board may employ specialists and other professional consultants or examining services in conducting the examination.

4. Each member who is not licensed in any state to practice any healing art shall not participate in preparing, conducting or grading any examination required by the Board.

Sec. 73. NRS 633.411 is hereby amended to read as follows:

633.411 1. Except as otherwise provided in NRS 633.315, the Board may issue a special license to practice osteopathic medicine to a person qualified under this section to authorize him to serve:

(a) As a resident medical officer in any hospital in Nevada. A person issued such a license shall practice osteopathic medicine only within the confines of the hospital specified in the license and under the supervision of the regular medical staff of that hospital.

(b) As a professional employee of the State of Nevada or of the United States. A person issued such a license shall practice osteopathic medicine only within the scope of his employment and under the supervision of the appropriate state or federal medical agency.

2. An applicant for a special license under this section must:

(a) Be a graduate of a school of osteopathic medicine **.** ~~[and have completed a hospital internship.]~~

(b) Pay the special license fee specified in this chapter.

3. The Board shall not issue a license under subsection 1 unless it has received a letter from a hospital in Nevada or from the appropriate state or federal medical agency requesting issuance of the special license to the applicant.

4. A special license issued under this section:

(a) Must be issued at a meeting of the Board or between its meetings by its President and Secretary subject to approval at the next meeting of the Board.

(b) Is valid for a period not exceeding 1 year, as determined by the Board.

(c) May be renewed by the Board upon application and payment by the licensee of the special license renewal fee specified in this chapter.

(d) Does not entitle the licensee to engage in the private practice of osteopathic medicine.

5. The issuance of a special license under this section does not obligate the Board to grant any regular license to practice osteopathic medicine.

Sec. 74. NRS 633.511 is hereby amended to read as follows:

633.511 The grounds for initiating disciplinary action pursuant to this chapter are:

1. Unprofessional conduct.

2. Conviction of:

(a) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS;

(b) A felony relating to the practice of osteopathic medicine;

(c) A violation of any of the provisions of NRS 616D.200, 616D.220, 616D.240 or 616D.300 to 616D.440, inclusive;

(d) Murder, voluntary manslaughter or mayhem;

(e) Any felony involving the use of a firearm or other deadly weapon;

(f) Assault with intent to kill or to commit sexual assault or mayhem;

(g) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(h) Abuse or neglect of a child or contributory delinquency; or

(i) Any offense involving moral turpitude.

3. The suspension of the license to practice osteopathic medicine by any other jurisdiction.

4. ~~[Gross or repeated]~~ ***Malpractice or gross*** malpractice, which may be evidenced by ~~[claims]~~ ***a claim*** of malpractice settled against a practitioner.

5. Professional incompetence.

6. Failure to comply with the requirements of NRS 633.527.

7. Failure to comply with the requirements of subsection 3 of NRS 633.471.

8. Failure to comply with the provisions of subsection 2 of NRS 633.322.

9. Signing a blank prescription form.

10. Attempting, directly or indirectly, by intimidation, coercion or deception, to obtain or retain a patient or to discourage the use of a second opinion.

11. Terminating the medical care of a patient without adequate notice or without making other arrangements for the continued care of the patient.

12. In addition to the provisions of subsection 3 of NRS 633.524, making or filing a report which the licensee knows to be false, failing to file a record or report that is required by law or willfully obstructing or inducing another to obstruct the making or filing of such a record or report.

Sec. 75. NRS 633.561 is hereby amended to read as follows:

633.561 1. Notwithstanding the provisions of chapter 622A of NRS, if the Board or a member of the Board designated to review a complaint pursuant to NRS 633.541 has reason to believe that the conduct of an osteopathic physician has raised a reasonable question as to his competence to practice osteopathic medicine with reasonable skill and safety to patients, the Board or the member designated by the Board may require the osteopathic physician to submit to a mental or physical examination by physicians designated by the Board. ***If the osteopathic physician participates in a diversion program, the diversion program may exchange with any authorized member of the staff of the Board any information concerning the recovery and participation of the osteopathic physician in the diversion program. As used in this subsection, "diversion program" means a program approved by the Board to correct an osteopathic physician's alcohol or drug dependence or any other impairment.***

2. For the purposes of this section:

(a) Every physician who is licensed under this chapter who accepts the privilege of practicing osteopathic medicine in this State shall be deemed to have given his consent to submit to a mental or physical examination if directed to do so in writing by the Board.

(b) The testimony or examination reports of the examining physicians are not privileged communications.

3. Except in extraordinary circumstances, as determined by the Board, the failure of a physician who is licensed under this chapter to submit to an examination if directed as provided in this section constitutes an admission of the charges against him.

Sec. 76. NRS 633.625 is hereby amended to read as follows:

633.625 1. Any ~~[osteopathic physician]~~ ***licensee*** against whom the Board initiates disciplinary action pursuant to this chapter shall, within 30 days after the ~~[osteopathic physician's]~~ ***licensee's*** receipt of notification of the initiation of the disciplinary action, submit to the Board a complete set of his fingerprints and written permission authorizing the Board to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

2. The willful failure of ~~[an osteopathic physician]~~ ***a licensee*** to comply with the requirements of subsection 1 constitutes additional grounds for disciplinary action and the revocation of the license of the ~~[osteopathic physician.]~~ ***licensee.***

3. The Board has additional grounds for initiating disciplinary action against ~~[an osteopathic physician]~~ ***a licensee*** if the report from the Federal Bureau of Investigation indicates that the ~~[osteopathic physician]~~ ***licensee*** has been convicted of:

(a) An act that is a ground for disciplinary action pursuant to NRS 633.511; or

(b) A felony set forth in NRS 633.741.

Sec. 77. NRS 633.651 is hereby amended to read as follows:

633.651 1. If the Board finds a person guilty in a disciplinary proceeding, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period or until further order of the Board.

(b) Administer to the person a public reprimand.

(c) Limit the practice of the person to, or by the exclusion of, one or more specified branches of osteopathic medicine.

(d) Suspend the license of the person to practice osteopathic medicine for a specified period or until further order of the Board.

(e) Revoke the license of the person to practice osteopathic medicine.

(f) Impose a fine not to exceed $5,000 for each violation.

(g) Require supervision of the practice of the person.

(h) Require the person to perform community service without compensation.

(i) Require the person to complete any training or educational requirements specified by the Board.

(j) Require the person to participate in a program to correct alcohol or drug dependence or any other impairment.

➥ The order of the Board may contain ~~[such]~~ ***any*** other terms, provisions or conditions as the Board deems proper and which are not inconsistent with law.

2. The Board shall not administer a private reprimand.

3. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 78. NRS 633.691 is hereby amended to read as follows:

633.691 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, ***an employee or volunteer of a diversion program specified in NRS 633.561,*** 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.

Sec. 79. NRS 652.210 is hereby amended to read as follows:

652.210 1. Except as otherwise provided in subsection 2 and NRS 126.121, no person other than a licensed physician, a licensed optometrist, a licensed practical nurse, a registered nurse, a ***perfusionist, a*** physician assistant licensed pursuant to chapter 630 or 633 of NRS, a certified intermediate emergency medical technician, a certified advanced emergency medical technician, a practitioner of respiratory care licensed pursuant to chapter 630 of NRS or a licensed dentist may manipulate a person for the collection of specimens.

2. The technical personnel of a laboratory may collect blood, remove stomach contents, perform certain diagnostic skin tests or field blood tests or collect material for smears and cultures.

Sec. 80. NRS 200.471 is hereby amended to read as follows:

200.471 1. As used in this section:

(a) "Assault" means intentionally placing another person in reasonable apprehension of immediate bodily harm.

(b) "Officer" means:

(1) A person who possesses some or all of the powers of a peace officer;

(2) A person employed in a full-time salaried occupation of fire fighting for the benefit or safety of the public;

(3) A member of a volunteer fire department;

(4) A jailer, guard, matron or other correctional officer of a city or county jail;

(5) A justice of the Supreme Court, district judge, justice of the peace, municipal judge, magistrate, court commissioner, master or referee, including a person acting pro tempore in a capacity listed in this subparagraph; or

(6) An employee of the State or a political subdivision of the State whose official duties require him to make home visits.

(c) "Provider of health care" means a physician, a ***perfusionist or a*** physician assistant licensed pursuant to chapter 630 of NRS, a practitioner of

respiratory care, a homeopathic physician, an advanced practitioner of homeopathy, a homeopathic assistant, an osteopathic physician, a physician assistant licensed pursuant to chapter 633 of NRS, a podiatric physician, a podiatry hygienist, a physical therapist, a medical laboratory technician, an optometrist, a chiropractor, a chiropractor's assistant, a doctor of Oriental medicine, a nurse, a student nurse, a certified nursing assistant, a nursing assistant trainee, a dentist, a dental hygienist, a pharmacist, an intern pharmacist, an attendant on an ambulance or air ambulance, a psychologist, a social worker, a marriage and family therapist, a marriage and family therapist intern, a clinical professional counselor, a clinical professional counselor intern and an emergency medical technician.

(d) "School employee" means a licensed or unlicensed person employed by a board of trustees of a school district pursuant to NRS 391.100.

(e) "Sporting event" has the meaning ascribed to it in NRS 41.630.

(f) "Sports official" has the meaning ascribed to it in NRS 41.630.

(g) "Taxicab" has the meaning ascribed to it in NRS 706.8816.

(h) "Taxicab driver" means a person who operates a taxicab.

(i) "Transit operator" means a person who operates a bus or other vehicle as part of a public mass transportation system.

2. A person convicted of an assault shall be punished:

(a) If paragraph (c) or (d) does not apply to the circumstances of the crime and the assault is not made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a misdemeanor.

(b) If the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(c) If paragraph (d) does not apply to the circumstances of the crime and if the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event, and the person charged knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a gross misdemeanor, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

(d) If the assault is committed upon an officer, a provider of health care, a school employee, a taxicab driver or a transit operator who is performing his duty or upon a sports official based on the performance of his duties at a sporting event by a probationer, a prisoner who is in lawful custody or confinement or a parolee, and the probationer, prisoner or parolee charged

knew or should have known that the victim was an officer, a provider of health care, a school employee, a taxicab driver, a transit operator or a sports official, for a category D felony as provided in NRS 193.130, unless the assault is made with the use of a deadly weapon, or the present ability to use a deadly weapon, then for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than $5,000, or by both fine and imprisonment.

Sec. 81. NRS 200.5093 is hereby amended to read as follows:

200.5093 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that an older person has been abused, neglected, exploited or isolated shall:

(a) Except as otherwise provided in subsection 2, report the abuse, neglect, exploitation or isolation of the older person to:

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

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

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

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

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the older person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the older person involves an act or omission of the Aging Services Division, another division of the Department of Health and Human Services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission.

3. Each agency, after reducing a report to writing, shall forward a copy of the report to the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, ***perfusionist,*** psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends

or treats an older person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of an older person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide personal care services in the home.

(e) Every person who maintains or is employed by an agency to provide nursing in the home.

(f) Every person who operates, who is employed by or who contracts to provide services for an intermediary service organization as defined in NRS 426.218.

(g) Any employee of the Department of Health and Human Services.

(h) Any employee of a law enforcement agency or a county's office for protective services or an adult or juvenile probation officer.

(i) Any person who maintains or is employed by a facility or establishment that provides care for older persons.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of an older person and refers them to persons and agencies where their requests and needs can be met.

(k) Every social worker.

(l) Any person who owns or is employed by a funeral home or mortuary.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that an older person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the older person and submit to the appropriate local law enforcement agencies, the appropriate prosecuting attorney, the Aging Services Division of the Department of Health and Human Services and the Unit for the Investigation and Prosecution of Crimes his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

7. A division, office or department which receives a report pursuant to this section shall cause the investigation of the report to commence within 3 working days. A copy of the final report of the investigation conducted by a division, office or department, other than the Aging Services Division of the Department of Health and Human Services, must be forwarded to the Aging Services Division within 90 days after the completion of the report, and a copy of any final report of an investigation must be forwarded to the Unit for

the Investigation and Prosecution of Crimes within 90 days after completion of the report.

8. If the investigation of a report results in the belief that an older person is abused, neglected, exploited or isolated, the Aging Services Division of the Department of Health and Human Services or the county's office for protective services may provide protective services to the older person if he is able and willing to accept them.

9. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

10. As used in this section, "Unit for the Investigation and Prosecution of Crimes" means the Unit for the Investigation and Prosecution of Crimes Against Older Persons in the Office of the Attorney General created pursuant to NRS 228.265.

Sec. 82. NRS 200.50935 is hereby amended to read as follows:

200.50935 1. Any person who is described in subsection 3 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a vulnerable person has been abused, neglected, exploited or isolated shall:

(a) Report the abuse, neglect, exploitation or isolation of the vulnerable person to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the vulnerable person has been abused, neglected, exploited or isolated.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse, neglect, exploitation or isolation of the vulnerable person involves an act or omission of a law enforcement agency, the person shall make the report to a law enforcement agency other than the one alleged to have committed the act or omission.

3. A report must be made pursuant to subsection 1 by the following persons:

(a) Every physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, ***perfusionist,*** physician assistant licensed pursuant to chapter 630 or 633 of NRS, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, athletic trainer, driver of an ambulance, advanced emergency medical technician or other person providing medical services licensed or certified to practice in this State, who examines, attends or treats a vulnerable person who appears to have been abused, neglected, exploited or isolated.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of the suspected abuse, neglect, exploitation or isolation of a vulnerable person by a member of the staff of the hospital.

(c) A coroner.

(d) Every person who maintains or is employed by an agency to provide nursing in the home.

(e) Any employee of the Department of Health and Human Services.

(f) Any employee of a law enforcement agency or an adult or juvenile probation officer.

(g) Any person who maintains or is employed by a facility or establishment that provides care for vulnerable persons.

(h) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding the abuse, neglect, exploitation or isolation of a vulnerable person and refers them to persons and agencies where their requests and needs can be met.

(i) Every social worker.

(j) Any person who owns or is employed by a funeral home or mortuary.

4. A report may be made by any other person.

5. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a vulnerable person has died as a result of abuse, neglect or isolation, the person shall, as soon as reasonably practicable, report this belief to the appropriate medical examiner or coroner, who shall investigate the cause of death of the vulnerable person and submit to the appropriate local law enforcement agencies and the appropriate prosecuting attorney his written findings. The written findings must include the information required pursuant to the provisions of NRS 200.5094, when possible.

6. A law enforcement agency which receives a report pursuant to this section shall immediately initiate an investigation of the report.

7. A person who knowingly and willfully violates any of the provisions of this section is guilty of a misdemeanor.

Sec. 83. NRS 372.7285 is hereby amended to read as follows:

372.7285 1. In administering the provisions of NRS 372.325, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, ***perfusionist,*** dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 84. NRS 374.731 is hereby amended to read as follows:

374.731 1. In administering the provisions of NRS 374.330, the Department shall apply the exemption to the sale of a medical device to a governmental entity that is exempt pursuant to that section without regard to whether the person using the medical device or the governmental entity that purchased the device is deemed to be the holder of title to the device if:

(a) The medical device was ordered or prescribed by a provider of health care, within his scope of practice, for use by the person to whom it is provided;

(b) The medical device is covered by Medicaid or Medicare; and

(c) The purchase of the medical device is made pursuant to a contract between the governmental entity that purchases the medical device and the person who sells the medical device to the governmental entity.

2. As used in this section:

(a) "Medicaid" means the program established pursuant to Title XIX of the Social Security Act, 42 U.S.C. 1396 et seq., to provide assistance for part or all of the cost of medical care rendered on behalf of indigent persons.

(b) "Medicare" means the program of health insurance for aged persons and persons with disabilities established pursuant to Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq.

(c) "Provider of health care" means a physician licensed pursuant to chapter 630, 630A or 633 of NRS, ***perfusionist,*** dentist, licensed nurse, dispensing optician, optometrist, practitioner of respiratory care, registered physical therapist, podiatric physician, licensed psychologist, licensed audiologist, licensed speech pathologist, licensed hearing aid specialist, licensed marriage and family therapist, licensed clinical professional counselor, chiropractor or doctor of Oriental medicine in any form.

Sec. 85. NRS 432B.220 is hereby amended to read as follows:

432B.220 1. Any person who is described in subsection 4 and who, in his professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of his home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, ***perfusionist,*** psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, clinical social worker, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A clergyman, practitioner of Christian Science or religious healer, unless he has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless he has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for an approved youth shelter. As used in this paragraph, "approved youth shelter" has the meaning ascribed to it in NRS 244.422.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

Sec. 86. Section 121 of chapter 413, Statutes of Nevada 2007, at page 1869, is hereby amended to read as follows:

Sec. 121. 1. This act becomes effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2008, for all other purposes.

2. ~~[The amendatory provisions of section 7 of this act expire by limitation on January 1, 2012.~~

~~3.]~~ Sections 11 and 25 of this act expire by limitation on January 1, 2012.

Sec. 87. NRS 630.175 and 630.348 are hereby repealed.

Sec. 88. Section 7 of chapter 413, Statutes of Nevada 2007, at page 1825, is hereby repealed.

Sec. 89. Notwithstanding the amendatory provisions of this act:

1. A person may be licensed as a perfusionist without complying with the provisions of section 8 of this act if the person:

(a) Is employed or otherwise working as a perfusionist on July 1, 2009;

(b) Has been operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility as his primary function for at least 6 of the 8 years immediately preceding the date of application; and

(c) Before July 1, 2010, submits to the Board of Medical Examiners:

(1) An application for a license to practice perfusion on a form provided by the Board;

(2) The required fee established by the Board for the license; and

(3) The information required pursuant to NRS 630.197, unless that section has expired by limitation and is no longer in effect.

2. If a person is employed or otherwise working as a perfusionist on July 1, 2009, but the person does not meet the qualifications to be licensed as a perfusionist pursuant to subsection 1 or, if so qualified, fails to obtain a license as a perfusionist pursuant to subsection 1, the person:

(a) May continue to practice perfusion in this State until June 30, 2010, without holding a license to practice perfusion issued by the Board of Medical Examiners; and

(b) Must, if the person wishes to continue to practice perfusion in this State on or after July 1, 2010, hold a license to practice perfusion issued by the Board.

Sec. 90. A person who, on October 1, 2009:

1. Is the holder of a valid restricted license issued pursuant to NRS 630.262 and who is otherwise qualified to hold such a license on that date shall be deemed to hold an authorized facility license issued pursuant to that section, as amended by section 38 of this act.

2. Is the holder of a valid license as a practitioner of respiratory care pursuant to NRS 630.277 and who is otherwise qualified to practice respiratory care on that date shall be deemed to hold such a license issued pursuant to that section, as amended by section 40 of this act.

Sec. 91. 1. This section and sections 27, 86, 88 and 89 of this act become effective upon passage and approval.

2. Sections 1, 3 to 13, inclusive, 15, 16, 19, 20, 21, 24, 29, 33, 39, 45, 46, 50, 51, 52, 55, 59 to 65, inclusive, 70 and 79 to 85, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any preliminary administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2010, for all other purposes.

3. Sections 2, 14, 17, 18, 22, 23, 25, 26, 28, 30, 31, 32, 35 to 38, inclusive, 40 to 44, inclusive, 47, 48, 49, 53, 54, **54.5,** 57, 58, 66 to 69, inclusive, 71 to 78, inclusive, 87 and 90 of this act become effective on October 1, 2009.

4. Section 33 of this act expires by limitation on the date 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 of the support of one or more children,

➥ are repealed by the Congress of the United States.

5. Section 34 of this act becomes effective on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

6. Sections 34 and 60 of this act expire by limitation on the date 2 years after the date on which the provision 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.

LEADLINES OF REPEALED SECTIONS OF NRS AND
TEXT OF REPEALED SECTION OF STATUTES OF NEVADA

630.175 Reporting of certain additional information concerning application.

630.348 Standards for revocation of license.

Section 7 of chapter 413, Statutes of Nevada 2007:

Sec. 7. NRS 630.1605 is hereby amended to read as follows:

630.1605 ***1.*** Except as otherwise provided in NRS 630.161, the Board ~~[may]~~ ***shall, except for good cause,*** issue a license by endorsement to practice medicine to an applicant who has been issued a license to practice medicine by the District of Columbia or any state or territory of the United States if:

~~[1.]~~ ***(a)*** At the time the applicant files his application with the Board, the license is in effect ~~[;~~

~~2. The applicant:~~

~~(a) Submits to the Board proof of passage of an examination approved by the Board;~~

~~(b) Submits to the Board any documentation and other proof of qualifications required by the Board;~~

~~(c) Meets all of the statutory requirements for licensure to practice medicine in effect at the time of application except for the requirements set forth in NRS 630.160; and~~

~~(d) Completes any additional requirements relating to the fitness of the applicant to practice required by the Board; and~~

~~3. Any documentation and other proof of qualifications required by the Board is authenticated in a manner approved by the Board.~~**]** ***and unrestricted; and***

(b) The applicant:

(1) Is currently certified by a specialty board of the American Board of Medical Specialties and was certified or recertified within the past 10 years;

(2) Has had no adverse actions reported to the National Practitioner Data Bank within the past 10 years;

(3) Has been continuously and actively engaged in the practice of medicine within his specialty for the past 5 years;

(4) Is not involved in and does not have pending any disciplinary action concerning his license to practice medicine in the District of Columbia or any state or territory of the United States;

(5) Provides information on all the medical malpractice claims brought against him, without regard to when the claims were filed or how the claims were resolved; and

(6) Meets all statutory requirements to obtain a license to practice medicine in this State except that the applicant is not required to meet the requirements set forth in NRS 630.160.

2. A license by endorsement may be issued at a meeting of the Board or between its meetings by its President and Executive Director. Such an action shall be deemed to be an action of the Board.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 310.

Bill read second time.

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

Amendment No. 784.

AN ACT relating to trust companies; establishing various requirements for licensing as a retail trust company; establishing certain minimum capital requirements for trust companies; authorizing the Commissioner of Financial Institutions to take various actions relating to the regulation of trust companies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 3, 4, 6-8, 12-14, 16, 18, 25-27 and 30-36 of this bill revise various provisions governing the licensing and conduct of retail trust companies.

Sections 15-21, 31 and 35 of this bill authorize the Commissioner of Financial Institutions to take various actions concerning the activities of retail trust companies and the enforcement of chapter 669 of NRS.

Section 26 of this bill revises the minimum requirements for the amount of capital that must be held by trust companies.

Section 30 of this bill revises various fees relating to the licensing of retail trust companies.

Section 11 of this bill makes certain information provided to the Division of Financial Institutions of the Department of Business and Industry confidential in certain circumstances.

Section 9 of this bill authorizes the Commissioner to be a signatory to the Nationwide Cooperative Agreement for Supervision and Examination of Multi-State Trust Institutions as adopted by the Conference of State Bank Supervisors.

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

Section 1. Chapter 669 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 21, inclusive, of this act.

Sec. 2. ***1. "Family trust company" means a*** ~~*[nondepository trust company which is organized and licensed under this chapter by a designated relative to engage in trust company business with one or more family members and which does not transact business with the general public.]*~~ ***corporation or limited-liability company that:***

(a) Acts or proposes to act as a fiduciary;

(b) Is organized or qualified to do business in this State to serve family members; and

(c) Does not:

(1) Transact trust company business with;

(2) Propose to act as a fiduciary for; or

(3) Solicit trust company business from,

↪ a person who is not a family member.

2. As used in this section:

(a) "Designated relative" means the ~~[person who is so designated in the application for a license under NRS 669.150.]~~ common ancestor of the family, who may be either a living or deceased person. With regard to:

(1) A licensed family trust company or a family trust company applying to be licensed pursuant to this chapter, the designated relative is the person who is designated in the application for a license under this chapter or in the annual renewal of a license.

(2) A family trust company other than a family trust company described in subsection 1, the designated relative is any person designated by the family trust company in a letter to the Commissioner sent by certified mail, return receipt requested.

(b) "Family member" ~~[means]~~ includes, without limitation, the designated relative and:

(1) Any person within the ~~[fifth]~~ tenth degree of lineal kinship to the designated relative;

(2) Any person within the ninth degree of collateral kinship to the designated relative;

(3) Any nonfamily member who is an individual beneficiary under a will or trust created by a family member specified in subparagraph (1) or (2), including the spouse and issue of that person;

(4) The spouse and any former spouse of the designated relative ~~[;~~

~~(4) A spouse]~~ or of any person qualifying as a family member under subparagraph (1) or (2);

(5) Any person within the fifth degree of lineal kinship of ~~[the]~~ a spouse or former spouse identified in subparagraph (3) ~~[;]~~ or (4);

(6) A ~~[company controlled by one or more family members, who possess, directly or indirectly, the power to direct or cause the direction of the management and policies of the company, whether through the ownership of voting securities, by contract or otherwise;~~

~~(7) A]~~ family affiliate and the officers, managers and directors of that family affiliate and their immediate families;

(7) An inter vivos or testamentary trust established by a family member either individually or jointly with a spouse or third party and any trustee, advisor or other person assisting with administration of that trust;

(8) An inter vivos or testamentary trust established by a ~~[family member or by a]~~ person who is not a family member if noncharitable beneficiaries ~~[who are]~~ of that trust include family members ; ~~[represent a majority interest in the trust;]~~

~~[(8)]~~ (9) The estate of a family member; ~~[or~~

~~(9)]~~ (10) The estate of a nonfamily member if the noncharitable beneficiaries of that estate include family members; and

(11) A charitable foundation , charitable trust or charitable entity ~~[created by]~~ of which a family member ~~[,]~~ is an organizer, incorporator,

officer, member of the governing board, trustee, major donor or noncharitable beneficiary and the officers, directors, individual trustees and managers of that foundation, trust or entity and their immediate families.

3. For the purposes of this section:

(a) A family member is not a member of the public.

(b) A legally adopted person must be treated as a natural child of the adoptive parents.

(c) A stepchild must be treated as a natural child of the family member who is or was the stepparent of that child.

(d) Children of a spouse of a family member must be treated as natural children of that family member.

(e) Degrees are calculated by adding the number of steps from the designated relative through each person to the family member either directly, in the case of lineal kinship, or through the common ancestor, in the case of collateral kinship. As used in this paragraph:

(1) "Collateral kinship" means a relationship that is not lineal but stems from a common ancestor.

(2) "Lineal kinship" means a family member who is in the direct line of ascent or descent from the designated relative.

Sec. 2.3. ***"Grandfathered trust company" means a trust company that:***

1. Held a license pursuant to this chapter on March 16, 2009; or

2. Filed an application for a license pursuant to this chapter with the Commissioner on or before March 16, 2009, and held such license on October 1, 2009.

Sec. 2.7. ***1. "Noncustodial trust company" means a grandfathered trust company that:***

(a) Does not manage, or advise regarding, in the aggregate, more than $100,000,000 worth of a client's assets;

(b) Does not have custody or control of ~~*[a client's]*~~ ***clients' assets that exceed 20 percent of the total assets that the trust company manages for*** ~~*[that client;]*~~ ***all clients; and***

(c) To the extent that the trust company has custody or control of a client's assets, invests such assets pursuant to:

(1) Direction by the client; or

(2) The prudent investor standards of NRS 164.700 to 164.775, inclusive.

2. For the purposes of this section:

(a) "Advise" means to provide investment advice.

(b) "Control" means the ability to invest or transfer cash or any other asset in a fiduciary or client account to any person other than:

(1) In the case of an account for which the trust company acts as fiduciary, the settlor or beneficiary; and

(2) In the case of any other account of a client, the owner of the account.

(c) "Manage" means the exercise of discretion regarding investments, whether or not that discretion is delegated to another person.

Sec. 3. ***"Retail trust company" means an entity which is licensed under this chapter*** **.** ~~*[and engaged in a trust company business in this State.]*~~

Sec. 4. ***1. A retail trust company licensed in this State shall maintain its principal office in this State.***

2. The conditions for a retail trust company to fulfill the requirements of subsection 1 include, but are not limited to:

(a) A verifiable physical office in this State that conducts such business operations in this State as are necessary to administer trusts in this State;

(b) The presence of an employee that is a resident of Nevada in the principal office who has experience that is satisfactory to the Commissioner in accepting and administering trusts;

(c) Maintenance of originals or true copies of all material business records and accounts of the retail trust company which may be accessed and are readily available for examination by the Division of Financial Institutions;

(d) Maintenance of the required cash portion of the stockholders' equity pursuant to NRS 669.100 in accounts with one or more banks or other financial institutions located in this State;

(e) The provision of services to residents of this State consistent with the business plan provided by the trust company with its license application; and

(f) Such other conditions that the Commissioner may require to protect the public interest.

Sec. 5. (Deleted by amendment.)

Sec. 6. ***1. The Commissioner may conduct a pre-opening examination of a retail trust company and, in rendering a decision on an application for a license as a retail trust company, consider:***

(a) The proposed market or markets to be served and, if they extend outside of this State, any exceptional risk, examination or supervision concerns associated with such markets;

(b) Whether the proposed organizational and capital structure and the amount of initial capital appear adequate in relation to the proposed business and market or markets, including, without limitation, the average level of assets under management and administration projected for each of the first 3 years of operation;

(c) Whether the anticipated volume and nature of business indicate a reasonable probability of success and profitability based on the market or markets proposed to be served;

(d) Whether the proposed officers and directors or managers of the proposed retail trust company, as a group, have sufficient experience, ability, standing and competence and whether each individually has sufficient trustworthiness and integrity to justify a belief that the proposed retail trust company will be free from improper or unlawful influence and

otherwise will operate in compliance with the law and applicable fiduciary duties and that success of the proposed retail trust company is reasonably probable;

(e) Whether any investment services to trusts, estates, charities, employee benefit plans and other fiduciary accounts or to natural persons, partnerships, limited-liability companies and other entities, including, without limitation, providing investment advice with or without discretion or selling investments in or investment products of affiliated or nonaffiliated persons, will be conducted in compliance with all applicable fiduciary standards, including, without limitation, NRS 164.700 to 164.775, inclusive, the duty of loyalty and disclosure of material information;

(f) Whether the proposed retail trust company will be exempt from registration under the Investment Advisers Act of 1940, 15 U.S.C. 80a-1 et seq., and any similar state laws in each state where it would otherwise be required to register and, if not, whether it will comply with such registration requirements before commencing business and thereafter will comply with all federal and state laws and regulations applicable to it, its employees and representatives as a registrant under such laws;

(g) Whether the proposed retail trust company will obtain suitable annual audits by qualified outside auditors of its books and records and its fiduciary activities under applicable account rules and standards as well as suitable internal audits; and

(h) Any other factors that the Commissioner may require.

2. The Commissioner may require a retail trust company to maintain capital in excess of the minimum required either initially or at any subsequent time based on his assessment of the risks associated with the retail trust company's business plan or any other circumstances revealed in the application, his investigation of the application or any examination of or filing by the retail trust company thereafter, including any examination before the opening of the retail trust company for business. In making such a determination, the Commissioner may consider:

(a) The nature and type of business proposed to be conducted by the retail trust company;

(b) The nature and liquidity of assets proposed to be held in its own account;

(c) The amount of fiduciary assets projected to be under management or under administration of the retail trust company;

(d) The type of fiduciary assets proposed to be held and any proposed depository of such assets;

(e) The complexity of fiduciary duties and degree of discretion proposed to be undertaken by the retail trust company;

(f) The competence and experience of proposed management of the retail trust company;

(g) The extent and adequacy of proposed internal controls;

(h) The proposed presence or absence of annual audits by an independent certified public accountant, and the scope and frequency of such audits, whether they result in an opinion of the accountant and any qualifications to the opinion;

(i) The reasonableness of business plans for retaining or acquiring additional equity capital;

(j) The existence and adequacy of insurance proposed to be obtained by the retail trust company for the purpose of protecting its fiduciary assets;

(k) The success of the retail trust company in achieving the financial projections submitted with its licensing application;

(l) The fulfillment by the retail trust company of its representations and its descriptions of its business structures and methods and management set forth in its licensing application; and

(m) Any other factor that the Commissioner may require.

Sec. 7. ***1. A license issued pursuant to this chapter is not transferable or assignable. Upon approval of the Commissioner, a licensee may merge or consolidate with, or transfer its assets and control to, another entity that has been issued a license under this chapter. In making a determination regarding whether to grant such approval, the Commissioner may consider the factors set forth in paragraphs (a) to (m), inclusive, of subsection 2 of section 6 of this act.***

2. If there is a change in control of any retail trust company, the chief executive officer or managing member of the retail trust company shall report the fact and the person obtaining control to the Commissioner within 5 business days after obtaining knowledge of the change.

3. A retail trust company shall, within 5 business days after there is a change in the chief executive officer, managing member or a majority of the directors or managing directors of the retail trust company, report the change to the Commissioner. The retail trust company shall include in its report a statement of the past and current business and professional affiliations of each new chief executive officer, managing member, director or managing director. A new chief executive officer, managing member, director or managing director shall furnish to the Commissioner a complete financial statement on a form prescribed by the Commissioner.

4. A person who acquires control as a result of a change of control of a retail trust company shall submit an application to the Commissioner. The application must be submitted on a form prescribed by the Commissioner. The Commissioner shall conduct an investigation to determine whether the person has a good reputation for honesty, trustworthiness and integrity and is competent to transact the business of a trust company in a manner which protects the interests of the general public.

5. The retail trust company with which the applicant described in subsection 4 is affiliated shall pay the nonrefundable cost of the investigation as the Commissioner requires. If the Commissioner denies

the application, he may forbid or limit the applicant's participation in the business of the trust company.

6. As used in this section, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policy of a retail trust company, or a change in the ownership of at least 25 percent of the outstanding voting stock of, or participating members' interest in, a retail trust company.

Sec. 8. ***1. It is unlawful for any retail trust company licensed in this State to engage in trust company business at any office outside this State without the prior approval of the Commissioner.***

2. Before the Commissioner will approve a branch to be located in another state, the retail trust company must:

(a) Obtain from that state a license as a trust company; or

(b) Meet all the requirements to ~~*[operate]*~~ ***do business as a trust company at an office in that state.***

Sec. 9. ***The Commissioner is authorized to be, on his own behalf and that of the Division of Financial Institutions, a signatory to the Nationwide Cooperative Agreement for Supervision and Examination of Multi-State Trust Institutions as adopted by the Conference of State Bank Supervisors and exercise his discretion in the supervision of multi-state trust institutions consistently with that agreement.***

Sec. 10. ***1. The Commissioner may require a licensee to provide an audited financial statement prepared by an independent certified public accountant licensed to do business in this State.***

2. On the fourth Monday in January of each year, each licensee shall submit to the Commissioner a list of stockholders required to be maintained pursuant to paragraph (c) of subsection 1 of NRS 78.105 or the list of members required to be maintained pursuant to paragraph (a) of subsection 1 of NRS 86.241, verified by the president or a manager, as appropriate.

3. The list of members required to be maintained pursuant to paragraph (a) of subsection 1 of NRS 86.241 must include the percentage of each member's interest in the company, in addition to the requirements set forth in that section.

4. Except as otherwise provided in NRS 239.0115, any document submitted pursuant to this section is confidential.

Sec. 11. ***Except as otherwise provided in NRS 239.0115, any application and personal or financial records submitted by a person pursuant to the provisions of this chapter and any personal or financial records or other documents obtained by the Division of Financial Institutions pursuant to an examination or audit conducted by the Division are confidential and may be disclosed only to:***

1. The Division, any authorized employee of the Division and any state or federal agency investigating the activities covered under the provisions of this chapter; and

2. Any person when the Commissioner, in his discretion, determines that the interests of the public that would be protected by disclosure outweigh the interest of any person in the confidential information not being disclosed.

Sec. 12. ***The Commissioner may direct that the board of directors or managers of a retail trust company meet at least quarterly in regular meetings to review the books, records, funds and securities held by the retail trust company in its individual and fiduciary capacities and maintain a written record of those meetings for review by the Division.***

Sec. 13. ***1. Except as otherwise provided in subsection 3, the affairs and business of a retail trust company organized as a corporation under the laws of this State must be managed or controlled by a board of directors of not less than five in number who must be selected by the stockholders at the annual meeting of stockholders in such manner as may be provided by the bylaws of the corporation.***

2. Except as otherwise provided in subsection 3, the affairs and business of a retail trust company organized as a limited-liability company under the laws of this State must be managed or controlled by no fewer than five managers selected from the members as provided in the operating agreement.

3. The Commissioner may authorize a retail trust company to be managed or controlled by no fewer than three directors or managers, as appropriate.

4. The board of directors or managers of a noncustodial trust company must be not less than three in number unless a smaller number is authorized by the Commissioner.

Sec. 14. ***1. No person is eligible to serve as a director or manager of any retail trust company unless he:***

(a) Displays the competence and integrity to transact the business of the retail trust company in a manner which safeguards the interests of the general public; and

(b) Has a financial status consistent with his responsibilities to the public.

2. The Commissioner may require any or all new directors or managing directors of a retail trust company to provide such financial and biographical information and verification thereof as he deems appropriate, including the completion of any forms required to be completed in connection with the licensing of a retail trust company.

Sec. 15. ***1. For the purpose of discovering violations of this title or of securing information required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:***

(a) Any licensee;

(b) Any other person engaged in an activity for which a license is required pursuant to the provisions of this chapter; and

(c) Any person that the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purpose of examination, the Commissioner or his authorized representatives must have and be given free access to the offices and places of business, files, safes and vaults of such persons.

3. The Commissioner may require the attendance of any person and examine him under oath regarding:

(a) Any transaction or business regulated pursuant to the provisions of this chapter; or

(b) The subject matter of any audit, examination, investigation or hearing.

Sec. 16. ***The Commissioner may require the immediate removal from office of any officer, director, manager or employee of any retail trust company doing business under this chapter who is found to be dishonest, incompetent or reckless in the management of the affairs of the retail trust company, or who persistently violates the laws of this State or the lawful orders, instructions and regulations issued by the Commissioner.***

Sec. 17. (Deleted by amendment.)

Sec. 18. ***1. The Commissioner may institute disciplinary action or forthwith initiate proceedings to take possession of the business and property of any retail trust company when it appears that the retail trust company:***

(a) Has violated its charter or any state or federal laws applicable to the business of a trust company.

(b) Is conducting its business in an unauthorized or unsafe manner.

(c) Is in an unsafe or unsound condition to transact its business.

(d) Has an impairment of its stockholders' equity.

(e) Has refused to pay or transfer account assets to its account holders as required by the terms of the accounts' governing instruments.

(f) Has become insolvent.

(g) Has neglected or refused to comply with the terms of a lawful order of the Commissioner.

(h) Has refused, upon proper demand, to submit its records, affairs and concerns for inspection and examination of an appointed or authorized examiner of the Commissioner.

(i) Has made a voluntary assignment of its assets to receivers, conservators, trustees or creditors without complying with NRS 669.230.

(j) Has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS.

(k) Has materially and willfully breached its fiduciary duties to its customers.

(l) Has failed to properly disclose all fees, interest and other charges to its customers.

(m) Has willfully engaged in material conflicts of interest regarding a customer's account.

(n) Has made intentional material misrepresentations regarding any aspect of the services performed or proposed to be performed by the retail trust company.

2. The Commissioner also may forthwith initiate proceedings to take possession of the business and property of any trust company when it appears that the officers of the trust company have refused to be examined upon oath regarding its affairs.

Sec. 19. ***If the Commissioner finds that probable cause for revocation of any license exists and that enforcement of the provisions of this chapter requires immediate suspension of a license pending investigation, he may, upon 5 days' written notice and a hearing, enter an order suspending a license for a period not exceeding 20 days, pending a hearing upon the revocation.***

Sec. 20. ***1. Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this chapter, he may, in addition to all actions provided for in this chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.***

2. The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper.

3. In addition to all other means provided by law for the enforcement of a restraining order or injunction, the court in which an action is brought may impound, and appoint a receiver for, the property and business of the defendant, including books, papers, documents and records pertaining thereto, or so much thereof as a court may deem reasonably necessary to prevent violations of this chapter through or by means of the use of property and business, whether such books, papers, documents and records are in the possession of the defendant, a registered agent acting on behalf of the defendant or any other person. A receiver, when appointed and qualified, has such powers and duties as to custody, collection, administration, winding up and liquidation of such property and business as may from time to time be conferred upon him by the court.

4. If a receiver is appointed pursuant to subsection 3, such receiver shall remit to the owners, members or shareholders of the retail trust company any amount of equity and capital of the retail trust company remaining after discharge of the liabilities and payment of the normal, prudent and reasonable expenses of the receivership.

Sec. 21. ***1. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, he shall give at least 20***

days' written notice to the licensee stating the contemplated action and, in general, the grounds therefor and set a date for a hearing.

2. At the conclusion of a hearing, the Commissioner shall:

(a) Enter a written order dismissing the charges, revoking the license or suspending the license for a period of not more than 60 days, which period must include any prior temporary suspension. The Commissioner shall send a copy of the order to the licensee by registered or certified mail.

(b) Impose upon the licensee an administrative fine of not more than $10,000 for each violation by the licensee of any provision of this chapter or any regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as is necessary to recover the costs of the proceeding, including his investigative costs and attorney's fees.

3. The grounds for revocation or suspension of a license are that:

(a) The licensee has failed to pay the annual license fee;

(b) The licensee, either knowingly or without any exercise of due care to prevent it, has violated any provision of this chapter or any regulation adopted pursuant thereto or any lawful order of the Division of Financial Institutions;

(c) The licensee has failed to pay a tax as required pursuant to the provisions of chapter 363A of NRS;

(d) Any fact or condition exists which would have justified the Commissioner in denying the licensee's original application for a license pursuant to the provisions of this chapter; or

(e) The licensee:

(1) Failed to open an office for the conduct of the business authorized by his license within 180 days after the date his license was issued; or

(2) Has failed to remain open for the conduct of the business for a period of 30 days without good cause therefor.

4. An order suspending or revoking a license becomes effective 5 days after being entered unless the order specifies otherwise or a stay is granted.

Sec. 22. NRS 669.020 is hereby amended to read as follows:

669.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 669.029 to 669.070, inclusive, ***and sections 2 to 3, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 23. NRS 669.045 is hereby amended to read as follows:

669.045 ***1.*** "Fiduciary" means a trustee, executor, administrator, guardian of an estate, ***personal representative,*** conservator, assignee for the benefit of creditors, receiver, depositary or person that receives on deposit money or property from a public administrator under any provision of this chapter or from another fiduciary.

2. As used in this section, "administrator" includes servicers or administrators of individual retirement accounts within the meaning of section 408(a) of the Internal Revenue Code of 1986, 26 U.S.C. 408(a),

where the servicer or administrator holds itself out to the public for performance of such services and holds or maintains an ownership interest in the servicing rights of such accounts, or possesses or controls any of the assets of such accounts, including cash.

Sec. 24. NRS 669.080 is hereby amended to read as follows:

669.080 1. This chapter does not apply to a person who:

(a) Does business under the laws of this State, the United States or another state relating to banks, savings banks, savings and loan associations or thrift companies, but if the ***trust company*** business conducted in this State is not subject to supervision by a regulatory authority of another jurisdiction, the person must be licensed pursuant to this chapter ~~[.]~~ ***before engaging in such business in this State;***

(b) Is appointed as a fiduciary pursuant to NRS 662.245;

(c) Is acting in the performance of his duties as an attorney at law;

(d) Acts as a trustee under a deed of trust;

(e) Acts as a registered agent for a domestic or foreign corporation, limited-liability company, limited partnership or limited-liability partnership;

(f) Acts as a trustee of a trust holding real property for the primary purpose of facilitating any transaction with respect to real estate if he is not regularly engaged in the business of acting as a trustee for such trusts;

(g) Engages in the business of a collection agency pursuant to chapter 649 of NRS;

(h) Engages in the business of an escrow agency, escrow agent or escrow officer pursuant to the provisions of chapter 645A or 692A of NRS;

(i) Acts as a trustee of a trust created for charitable or nonprofit purposes if he is not regularly engaged in the business of acting as trustee for such trusts;

(j) Receives money or other property as a real estate broker licensed under chapter 645 of NRS on behalf of a principal;

(k) Engages in transactions as a broker-dealer or sales representative pursuant to chapter 90 of NRS;

(l) Acts as a fiduciary under a court trust;

(m) Does business as an insurer authorized to issue policies of life insurance and annuities or endowment contracts in this State and is subject to regulation and control of the Commissioner of Insurance; ~~[or]~~

(n) Acts as a fiduciary ~~[if:~~

~~(1) The fiduciary relationship is not one of his principal occupations; or~~

~~(2) He serves as a fiduciary for a relative by blood or marriage.]~~ ***as an individual; or***

(o) Acts as a family trust company, unless the family trust company is licensed under this chapter. A family trust company which is not licensed under the provisions of this chapter shall be deemed not to be engaged in trust company business for the purposes of this chapter.

2. A bank, savings bank, savings and loan association or thrift company claiming an exemption from this chapter pursuant to paragraph (a) of

subsection 1 must notify the Commissioner of Financial Institutions of its intention to engage in the business of a trust company in this State and present proof satisfactory to the Commissioner of Financial Institutions that its fiduciary activities in this State will be subject to regulation by another jurisdiction.

Sec. 25. NRS 669.090 is hereby amended to read as follows:

669.090 It is unlawful for any ~~[person]~~ ***retail trust company*** to engage in the business of a trust company without complying with the provisions of this chapter and having a license issued by the Commissioner.

Sec. 26. NRS 669.100 is hereby amended to read as follows:

669.100 ***1.*** No ***retail*** trust company may be organized or operated with a stockholders' equity of less than ~~[$300,000,]~~ ***$1,000,000,*** or in such greater amount as may be required by the Commissioner. The full amount of the initial stockholders' equity must be paid in cash, exclusive of all organization expenses, before the trust company is authorized to commence business.

2. A retail trust company shall maintain at least 50 percent of its required stockholders' equity in cash unless the Commissioner approves a smaller amount. The remaining 50 percent of its required stockholders' equity may be a different form of readily marketable securities or with prior approval by the Commissioner other liquid, secure asset, bond, surety or insurance, or some combination of the foregoing.

3. Any grandfathered trust company other than a noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

(1) By October 1, 2010, $500,000;

(2) By October 1, 2011, $750,000; and

(3) By October 1, 2012, $1,000,000; and

(b) Maintain $500,000 of such minimum capital in cash on and after October 1, 2010.

4. Any noncustodial trust company that does not have the minimum capital required by this section as of October 1, 2009, shall:

(a) Except as otherwise determined by the Commissioner, increase its capital to a minimum of:

(1) By October 1, 2010, $350,000;

(2) By October 1, 2011, $400,000; and

(3) By October 1, 2012, $500,000; and

(b) Maintain 50 percent of such minimum capital in cash on and after October 1, 2010.

5. As used in this section, "in cash" means in depository accounts with one or more banks in this State.

Sec. 27. NRS 669.130 is hereby amended to read as follows:

669.130 A ***retail*** trust company shall not transact business, except business that is incidental to its organization, until it is authorized by the

Commissioner to commence the business of a trust company as provided in this chapter.

Sec. 28. NRS 669.150 is hereby amended to read as follows:

669.150 1. An applicant must file an application for a license to transact trust company business with the Commissioner on forms prescribed by the Commissioner, which must contain or be accompanied by such information as the Commissioner requires.

2. A nonrefundable fee of not more than $2,000 must accompany the application. The applicant must also pay such reasonable additional expenses incurred in the process of investigation as the Commissioner deems necessary. In addition, a fee of not less than $200 or more than $500, prorated on the basis of the licensing year as provided by the Commissioner, must be paid at the time of making the application.

3. ~~[A]~~ ***Except as otherwise provided in section 8 of this act, a*** trust company may maintain offices in this and other states. For every branch location of a trust company organized under the laws of this State, and every branch location in this State of a foreign trust company authorized to do business in this State, a request for approval and licensing must be filed with the Commissioner on such forms as he prescribes. A nonrefundable fee of not more than $500 must accompany each request. In addition, a fee of not more than $200, prorated on the basis of the licensing year as provided by the Commissioner, must be paid at the time of making the request.

4. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section. All money received by the Commissioner pursuant to this section must be placed in the Investigative Account ***for Financial Institutions*** created by NRS 232.545.

5. The Commissioner shall consider an application to be withdrawn if the Commissioner has not received all information and fees required to complete the application within 12 months after the date the application is first submitted to the Commissioner or within such later period as the Commissioner determines in accordance with any existing policies of joint regulatory partners. If an application is deemed to be withdrawn pursuant to this subsection or if an applicant otherwise withdraws an application, the Commissioner may not issue a license to the applicant unless the applicant submits a new application and pays any required fees.

Sec. 29. NRS 669.160 is hereby amended to read as follows:

669.160 1. Within ~~[60]~~ ***90*** days after the application for a license is filed, the Commissioner shall investigate the facts of the application and the other requirements of this chapter to determine:

(a) That the persons who will serve as directors or officers of the corporation, or the managers or members acting in a managerial capacity of the limited-liability company, as applicable:

(1) Have a good reputation for honesty, trustworthiness and integrity and display competence to transact the business of a trust company in a

manner which safeguards the interests of the general public. The applicant must submit satisfactory proof of these qualifications to the Commissioner.

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

(3) Have not made a false statement of material fact on the application.

(4) Have not ***been an officer or member of the board of directors for an entity which*** had a license ~~[that was]~~ issued pursuant to the provisions of this chapter ***that was*** suspended or revoked within the 10 years immediately preceding the date of the application ~~[.]~~ ***, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.***

(5) Have not ***been an officer or member of the board of directors for a company which*** had a license as a trust company which 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 the application ~~[.]~~ ***, and in the reasonable judgment of the Commissioner, there is evidence that the officer or member of the board of directors materially contributed to the actions resulting in the license suspension or revocation.***

(6) Have not violated any of the provisions of this chapter or any regulation adopted pursuant to the provisions of this chapter.

(b) That the financial status of the directors and officers of the corporation or the managers or members acting in a managerial capacity of the limited-liability company is consistent with their responsibilities and duties.

(c) That the name of the proposed company complies with the provisions of NRS 657.200.

(d) That the initial stockholders' equity is not less than the required minimum.

(e) That the applicant has retained the employee required by paragraph (b) of subsection 2 of section 4 of this act.

2. Notice of the entry of an order refusing a license to a trust company must be given in writing, served personally or sent by certified mail ~~[or by telegram]~~ to the company affected. The company, upon application, is entitled to a hearing before ~~[a hearing officer appointed by the Director of the Department of Business and Industry,]~~ ***the Commissioner,*** but if no such application is made within 30 days after the entry of an order refusing a license to any company, the Commissioner shall enter a final order.

3. ~~[If the hearing officer affirms the]~~ ***The*** order of the Commissioner ~~[refusing the license, the applicant may file a petition for]~~ ***is final for the purposes of*** judicial review ***.*** ~~[pursuant to NRS 233B.130.]~~

Sec. 30. NRS 669.190 is hereby amended to read as follows:

669.190 1. The initial fee to be paid for a ***retail*** trust company license ~~[must be in proportion to the initial stockholders' equity of the trust company as follows:~~

~~(a) A trust company with an initial stockholders' equity of not less than $300,000 but not more than $500,000 must pay a license fee of not more than $1,000.~~

~~(b) A trust company with an initial stockholders' equity of more than $500,000 but not more than $1,000,000 must pay a license fee of not more than not more than $1,500.~~

~~(c) A trust company with an initial stockholders' equity of more than $1,000,000 must pay a license fee of not more than $2,000.~~**]** ***must not be more than $3,000.***

2. In addition, every ***retail*** trust company must pay an initial license fee of not more than **[**~~$200~~**]** ***$500*** for each branch office that is authorized by the Commissioner.

3. Thereafter, every ***retail*** trust company must pay annually on or before April 1 of each year a license fee **[**~~which must be in proportion to its existing stockholders' equity as follows:~~

~~(a) A trust company with an existing stockholders' equity of not less than $300,000 but not more than $500,000 must pay a license fee of not more than $1,000.~~

~~(b) A trust company with an existing stockholders' equity of more than $500,000 but not more than $1,000,000 must pay a license fee of not more than $1,500.~~

~~(c) A trust company with an existing stockholders' equity of more than $1,000,000 must pay a license fee of not more than $2,000.~~**]** ***of not more than $3,000.***

4. The Commissioner shall adopt regulations establishing the amount of the fees required pursuant to this section. All money collected under the provisions of this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 31. NRS 669.200 is hereby amended to read as follows:

669.200 ***The Commissioner shall issue an order cancelling a retail trust company's license:***

1. If **[**~~a~~**]** ***the*** proposed ***retail*** trust company fails to open for business within 6 months after the date the license was issued, or within an additional 6-month extension granted by the Commissioner upon written application and for good cause shown **[**~~, the Commissioner shall issue an order cancelling the trust company's license.~~**]** ***; or***

2. If the retail trust company fails to maintain regular business hours or otherwise conduct the business of a trust company for more than 30 days.

Sec. 32. NRS 669.210 is hereby amended to read as follows:

669.210 1. Each **[**~~licensed~~**]** ***retail*** trust company may **[**~~:~~**]** ***, in the conduct of its trust business, within and outside this State, subject to section 8 of this act, as applicable:***

(a) Act as ***indenture trustee or as*** trustee under any mortgage or bond of any person or of any municipality or body politic.

(b) Accept and execute any municipal or corporate or individual trust not inconsistent with the laws of this State.

(c) Act under the order or appointment of any court as guardian, administrator, receiver or trustee.

(d) Act as executor or trustee under any will.

(e) Act as fiscal or transfer agent of any state, municipality, body politic or corporation, and in such capacity receive and disburse money and register, transfer and countersign certificates of stock, bonds and other evidences of indebtedness.

(f) Act as ~~[local or]~~ ***a*** registered agent of foreign corporations.

(g) Accept and execute any trust business permitted by any law.

(h) Acquire the fiduciary rights, powers, duties and liabilities of a bank, savings and loan association, thrift company, trust company or credit union licensed pursuant to titles 55 and 56 of NRS, and upon the effective date of such an acquisition, the fiduciary rights, powers, duties and liabilities of the bank, savings and loan association, thrift company, trust company or credit union vest in and must be performed by the acquiring trust company.

(i) ***Act as an agent, advisory agent, assignee, attorney-in-fact, authenticating agent, bailee, bond or indenture trustee, conversion agent, curator, custodian, escrow agent, exchange agent, fiscal or paying agent, financial adviser, investment adviser, investment manager, managing agent, purchase agent, registrar, safekeeping agent, subscription agent, warrant agent or in similar capacities generally performed by corporate trustees, and in so acting, may possess, purchase, sell, invest, reinvest, safekeep or otherwise manage or administer real or personal property of other persons.***

(j) Exercise the powers of a business corporation or limited-liability company organized or qualified as a foreign corporation or limited-liability company under Nevada law and any incidental powers that are reasonably necessary to enable it to fully exercise, in accordance with commonly accepted customs and usages, a power conferred in this chapter.

(k) Do and perform all acts necessary to exercise the powers enumerated in this subsection and authorized by this chapter and any other applicable laws of this State.

2. A ***retail*** trust company may not engage in any banking business by accepting deposits or making loans.

Sec. 33. NRS 669.220 is hereby amended to read as follows:

669.220 1. A ***retail*** trust company:

(a) Shall keep all trust funds and investments separate from the assets of the ***retail*** trust company, and all investments made by the ***retail*** trust company as a fiduciary must be designated so that the trust or estate to which the investments belong may be clearly identified.

(b) When it holds trust funds awaiting investment or distribution, may deposit or leave those funds on deposit with a state or national bank or credit union. The funds must not be deposited or left with the same corporation

depositing them or leaving them on deposit, or with a corporation or association holding or owning a majority of the stock of the ***retail*** trust company making or leaving the deposit, unless that corporation or association first pledges, as security for the deposit, securities eligible for investment by state banks or credit unions which have a market value equal to that of the deposited funds. No security is required with respect to any portion of the deposits that is insured under the provisions of NRS 678.755 or a law of the United States.

(c) When it acts in any capacity under a court trust or private trust, unless the instrument creating the trust provides otherwise, may cause any securities ***or other assets*** held by it in its representative capacity to be registered ***or titled*** in the name of a nominee or nominees of the ***retail*** trust company.

(d) When acting as depositary or custodian for the personal representative of a court trust or private trust, unless the instrument creating the trust provides otherwise, may with the consent of the personal representative of the trust, cause any securities ***or other assets*** held by it to be registered ***or titled*** in the name of a nominee or nominees of the ***retail*** trust company.

2. A trust company is liable for any loss occasioned by the acts of its nominees with respect to securities registered under this section.

3. No corporation or the registrar or transfer agent of the corporation is liable for registering or causing to be registered on the books of the corporation any securities in the name of any nominee of a trust company or for transferring or causing to be transferred on the books of the corporation any securities registered by the corporation in the name of any nominee of a trust company when the transfer is made on the authorization of the nominee.

4. ~~[Except as otherwise provided in subsection 5, the]~~ ***The*** assets forming the capital of a ***retail*** trust company must:

(a) Be ***cash,*** governmental obligations or insured deposits that mature within 3 years after acquisition ~~[.]~~ ***, readily marketable securities or other liquid, secure assets, bonds, sureties or insurance, or some combination of the foregoing in accordance with NRS 669.100.***

(b) Have an aggregate market value that equals or exceeds ~~[60]~~ ***100*** percent of the company's ~~[current]~~ ***required*** stockholders' equity ***.*** ~~[or 60 percent of the company's initial stockholders' equity, whichever is greater.]~~

5. A ***retail*** trust company may purchase or rent ~~[land and equipment for use in the daily]~~ ***real or personal property useful for the conduct of the business and other*** activities of the ***retail*** trust company.

6. A retail trust company may invest its money for its own account, other than those required or permitted to be maintained by subsection 4 or 5 or NRS 669.100, in any type or character of equity securities, debt securities or other asset, provided the investment complies with the prudent investor standards of NRS 164.700 to 164.775, inclusive.

Sec. 34. NRS 669.225 is hereby amended to read as follows:

669.225 1. In addition to the powers of investment granted to the trust company by the instrument creating the relationship of fiduciary or agent, a

trust company which is acting as a fiduciary or agent may, in its discretion or at the direction of another person who is authorized to direct the investment of money held by the trust company as a fiduciary or agent, invest in the securities of an investment trust or investment company if:

(a) The investment trust or investment company is ~~[registered pursuant to]~~ ***an investment company for the purposes of*** the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-1 et seq.; ~~[and]~~

(b) The portfolio of the investment trust or investment company consists substantially of investments which are not prohibited by the instrument creating the fiduciary or agency relationship ~~[.]~~ ***; and***

(c) The relationship of the investment company to the trust company is disclosed to any person who is currently receiving statements for the account, by a prospectus, a statement of account or otherwise.

2. A ***retail*** trust company or an affiliate of the ***retail*** trust company ~~[may provide]~~ ***that provides*** services to the investment trust or investment company, including, without limitation, acting as an ~~[investment adviser,]~~ ***adviser,*** custodian, transfer agent, registrar, sponsor, distributor or ***shareholder serving agent*** manager ***,*** ~~[and]~~ may receive reasonable compensation for the services. The manner in which the compensation is calculated must be disclosed to ~~[the]~~ ***any*** person who is currently receiving ~~[the benefits of the relationship of a fiduciary or agent with the trust company. The disclosure may be made]~~ ***statements for the account*** by a prospectus, a statement of account or otherwise.

3. A ***retail*** trust company may deposit money held by the ***retail*** trust company as a fiduciary or agent ~~[with an affiliate before investing or making other disposition of the money.]~~ ***that is awaiting investment or distribution as provided in the governing instrument for the account in an affiliated bank. To the extent that the money invested in an affiliated bank is not insured by the Federal Deposit Insurance Corporation, the retail trust company shall set aside collateral as security, under the control of appropriate fiduciary officers and employees, with a market value that at all times equals or exceeds the amount of the uninsured fiduciary money.***

4. Notwithstanding subsections 1, 2 and 3, a retail trust company authorized to exercise trust powers in this State which is acting as a fiduciary shall not purchase for the fiduciary estate any fixed income or equity security issued by the retail trust company or an affiliate thereof other than an investment company, unless:

(a) The retail trust company is expressly authorized to do so by the terms of the instrument creating the trust, a court order, the written consent of the grantor of the trust or the written consent of every adult beneficiary of the trust who, at the time the notice is provided, receives, or is entitled to receive, income under the trust or who would be entitled to receive a distribution of principal if the trust were terminated; or

(b) The security is fairly priced and otherwise complies with the prudent investor standards of NRS 164.700 to 164.775, inclusive, and the terms of

the instrument, judgment, decree, or other document establishing the fiduciary relationship.

Sec. 35. NRS 669.295 is hereby amended to read as follows:

669.295 ***1.*** In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than $10,000 ***per violation*** upon a person who:

~~[1.]~~ ***(a)*** Without a license, conducts any business or activity for which a license is required pursuant to the provisions of this chapter; or

~~[2.]~~ ***(b)*** Violates any provision of this chapter or any regulation adopted pursuant thereto.

2. The maximum total fine that the Commissioner may impose on any person pursuant to this section with respect to the same or similar actions or series of actions which constitute the violations must not exceed the greater of $100,000 or 125 percent of all losses incurred by the retail trust company and its clients as the direct or indirect result of such violations.

Sec. 36. NRS 669.282 and 669.284 are hereby repealed.

Sec. 37. (Deleted by amendment.)

TEXT OF REPEALED SECTIONS

669.282 Authority of Commissioner to seize property, business and assets; duties of Commissioner upon seizure.

1. If the Commissioner ascertains by examination or otherwise that the capital or assets of a trust company are impaired or that the affairs of a trust company are in an unsafe condition which may result in danger to the public, he may immediately take possession of all the property, business and assets of the company which are located in this state and retain possession of them pending further proceedings as provided in this chapter.

2. If the directors or officers of a corporation or the managers or members acting in a managerial capacity of a limited-liability company refuse to allow the Commissioner to take possession of the property of the company, the Commissioner shall communicate that fact to the Attorney General. Upon notification from the Commissioner, the Attorney General shall immediately institute such proceedings as may be necessary to place the Commissioner in immediate possession of the property of the company. Upon possession of the property, the Commissioner shall make or have made an inventory of the assets and known liabilities of the company.

3. The Commissioner shall file one copy of the inventory in his office and one copy in the office of the clerk of the district court of the county in which the principal office of the trust company is located and shall mail one copy to each director or officer of the corporation, or the manager or member acting in a managerial capacity of the limited-liability company, at his last known address.

4. The clerk of the court with which the copy of the inventory is filed shall file it as any other case or proceeding pending in the court and shall give it a docket number.

669.284 Persons entitled to remedy conditions leading to seizure; effect of failure to remedy; receivership and liquidation of assets.

1. The directors or officers of a corporation or the managers or members acting in a managerial capacity of a limited-liability company licensed as a trust company may, within 60 days after the date the Commissioner takes possession of the property, business and assets of the corporation or limited-liability company licensed as a trust company, make good any deficit that exists or remedy the unsafe condition of the affairs of the corporation or limited-liability company licensed as a trust company.

2. At the expiration of the 60-day period set forth in subsection 1, if the deficiency in assets or capital has not been made good or the unsafe condition remedied, the Commissioner may apply to the court to be appointed receiver and proceed to liquidate the assets of the company that are located in this state in the same manner as now provided by law for liquidation of a private corporation in receivership.

3. Another person may not be appointed receiver by any court unless he first gives the Commissioner ample notice of his application.

4. The inventory made by the Commissioner pursuant to NRS 669.282 and all claims filed by creditors are open at all reasonable times for inspection, and any action taken by the receiver upon any of the claims is subject to the approval of the court before which the cause is pending.

5. The expenses of the receiver and compensation of counsel, as well as all expenditures required in the liquidation proceedings, must be fixed by the Commissioner subject to the approval of the court and, upon certification of the Commissioner, must be paid out of the money in his hands as the receiver.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 332.

Bill read second time.

The following amendment was proposed by the Committee on Transportation:

Amendment No. 745.

AN ACT relating to vehicles; revising provisions governing the use of alternative fuels and clean vehicles by fleets owned, operated or leased by certain state agencies and local governing bodies; authorizing a program to provide incentives to acquire clean vehicles and motor vehicles that use alternative fuels; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 1-11 of this bill revise provisions governing the use of alternative fuels by certain fleet vehicles. (NRS 486A.010-486A.180) **Section 4** revises the definition of "alternative fuel" to authorize the State Environmental Commission to define the term by regulation. (NRS 486A.030) **Section 5**

revises the definition of "fleet" to limit the applicability of **sections 1-11** to a fleet of 50 or more motor vehicles ~~[that]~~ **which are registered in the same county and which** are under the common control of and owned, leased or operated by a state agency or a local governing body. (NRS 486A.080) **Section 6** excludes certain vehicles that have a manufacturer's gross vehicle weight rating of more than 26,000 pounds from the requirements of **sections 1-11**. (NRS 486A.110)

Section 12 of this bill revises provisions encouraging the voluntary use of clean vehicles and motor vehicles that use alternative fuels by persons who are not subject to the requirements of **sections 1-11** of this bill. (NRS 486A.200)

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

Section 1. Chapter 486A of NRS is hereby amended by adding thereto a new section to read as follows:

"Clean vehicle" means any motor vehicle which complies with the ~~*[standards and requirements]*~~ ***specifications for clean vehicles established by the Commission.***

Sec. 2. NRS 486A.010 is hereby amended to read as follows:

486A.010 The Legislature finds that:

1. ~~[Protection of the]~~ ***The*** State's environment, particularly the quality of its air, ~~[requires a reduction,]~~ ***can be improved,*** especially in metropolitan areas, ~~[of the contaminants resulting from the combustion of conventional fuels in motor]~~ ***through the use of alternative fuels and clean*** vehicles.

2. A very large proportion of ~~[these]~~ ***air*** contaminants ~~[results]~~ ***result*** from the burning of liquid and gaseous fuels to operate trucks and buses, many of which are operated in fleets. Each fuel can be evaluated as to the air pollution it causes when burned in motor vehicles ~~[.~~

~~3. Conversion of these fleets to use cleaner-burning alternative fuels can reduce contaminants sufficiently to permit the continued use of conventional fuels in individually owned motor]~~ ***, and particular models of motor vehicles can be evaluated to assess the amount of contaminants those motor vehicles emit.***

3. Fleets operated by state agencies and local governing bodies can reduce air contaminants through the use of cleaner-burning alternative fuels and the acquisition of clean vehicles.

Sec. 3. NRS 486A.020 is hereby amended to read as follows:

486A.020 As used in NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 486A.030 to 486A.130, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.

Sec. 4. NRS 486A.030 is hereby amended to read as follows:

486A.030 "Alternative fuel" means any fuel which complies with the standards and requirements ***for alternative fuel*** established by the Commission. ~~[The term includes:~~

~~1. Reformulated gasoline; and~~

~~2. Finished diesel fuel that:~~

~~(a) Meets ASTM International specification D975; and~~

~~(b) Includes at least 5 percent biodiesel fuel blend stock for distillate fuels meeting ASTM International specification D6751,~~

~~➥ which comply with any applicable regulations adopted by the United States Environmental Protection Agency pursuant to the standards for the control of emissions from motor vehicles established in the Clean Air Act Amendments of 1990, Public Law 101-549, November 15, 1990.]~~ ***The term does not include a fuel that is required for use in this State pursuant to a state implementation plan adopted by this State pursuant to 42 U.S.C. 7410.***

Sec. 5. NRS 486A.080 is hereby amended to read as follows:

486A.080 "Fleet" means ~~[10]~~ ***50*** or more motor vehicles ~~[that]~~ ***which are registered in the same county and which*** are ***under the common control of and*** owned, leased or operated by ~~[the State or a local governing body. The term includes fleets that are used by the State,]~~ a state agency or a local governing body. The term does not include long haul trucks for use in interstate transportation or motor vehicles held for lease or rental to the general public.

Sec. 6. NRS 486A.110 is hereby amended to read as follows:

486A.110 "Motor vehicle" means every vehicle which is self-propelled, but not operated on rails, used upon a highway for the purpose of transporting persons or property. The term does not include a:

1. Farm tractor as defined in NRS 482.035;
2. Moped as defined in NRS 482.069; ~~[and]~~
3. Motorcycle as defined in NRS 482.070 ~~[.]~~ ***; and***
4. ***Vehicle having a manufacturer's gross vehicle weight rating of more than 26,000 pounds, unless the vehicle is designed for carrying more than 15 passengers.***

Sec. 7. NRS 486A.140 is hereby amended to read as follows:

486A.140 The provisions of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** do not apply to:

1. The owner of a fleet of motor vehicles that operates only in a county whose population is less than 100,000.
2. Any governmental agency exempted by federal statute or regulation.
3. Any person exempted by the Commission.

Sec. 8. NRS 486A.150 is hereby amended to read as follows:

486A.150 The Commission shall adopt regulations necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act,*** including, ~~[but not limited to,]~~ ***without limitation,*** regulations concerning:

1. Standards and requirements for alternative fuel. ~~[The Commission shall]~~ ***In establishing standards and requirements for alternative fuel, the Commission:***

(a) Must consider fuels that are recognized by the Environmental Protection Agency, the Department of Energy and the California Air Resources Board to improve air quality or reduce harmful air emissions.

(b) Shall not discriminate against any product that is petroleum based.

2. ~~*[Standards and requirements]*~~ ***Specifications for clean vehicles and motor vehicles that use alternative fuels. To the extent practicable and appropriate, the specifications established by the Commission must be consistent with the specifications established by the Environmental Protection Agency, the Department of Energy and the California Air Resources Board for the vehicle category and year of manufacture.***

3. The ~~[conversion of fleets to use alternative fuels if the]~~ ***acquisition of clean vehicles and motor vehicles that use alternative fuels by a*** fleet ***that*** is operated in a county whose population is 100,000 or more ~~[.~~

~~3. Standards for alternative fuel injection systems for diesel motor vehicles.]~~ ***, including, without limitation, recordkeeping and reporting requirements concerning such vehicles.***

4. Standards for levels of emissions from motor vehicles that are converted to use alternative fuels.

5. The establishment of a procedure for approving ***variances or*** exemptions to the requirements of NRS 486A.010 to 486A.180, inclusive ~~[.~~

~~6. Standards related to the use of dedicated alternative fuel motor vehicles.]~~ ***, and section 1 of this act. The Commission may approve a variance or exemption based upon:***

(a) A determination by the Commission that compliance with the requirements of NRS 486A.010 to 486A.180, inclusive, and section 1 of this act:

(1) Would void or reduce the coverage under a manufacturer's warranty for any vehicle or vehicle component;

(2) Would result in financial hardship to the owner or operator of a fleet; or

(3) Is impractical because of the lack of availability of clean vehicles, alternative fuel or motor vehicles that use alternative fuel; or

(b) Any other reason which the Commission determines is appropriate.

Sec. 9. NRS 486A.160 is hereby amended to read as follows:

486A.160 1. The Department shall:

(a) Make such determinations and issue such orders as may be necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive ~~[.]~~ ***, and section 1 of this act;***

(b) Enforce the regulations adopted by the Commission pursuant to the provisions of NRS 486A.010 to 486A.180, inclusive ~~[.]~~ ***, and section 1 of this act;*** and

(c) Conduct any investigation, research or study necessary to carry out the provisions of NRS 486A.010 to 486A.180, inclusive ~~[.]~~ ***, and section 1 of this act.***

2. Upon request, the Department of Motor Vehicles shall provide to the Department information contained in records of registration of motor vehicles.

Sec. 10. NRS 486A.170 is hereby amended to read as follows:

486A.170 1. An authorized representative of the Department may enter and inspect any fleet of ~~[10 or more]~~ motor vehicles that is subject to the requirements of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** to ascertain compliance with the provisions of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** and ***any*** regulations adopted pursuant thereto.

2. A person who owns or leases a fleet of ~~[10 or more]~~ ***motor*** vehicles shall not:

(a) Refuse entry or access to the motor vehicles to any authorized representative of the Department who requests entry for the purpose of inspection as provided in subsection 1.

(b) Obstruct, hamper or interfere with any such inspection.

3. If requested by the owner or lessor of a fleet of motor vehicles, the Department shall prepare a report of an inspection made pursuant to subsection 1 setting forth all facts determined which relate to the owner's or lessor's compliance with the provisions of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** and any regulations adopted pursuant thereto.

Sec. 11. NRS 486A.180 is hereby amended to read as follows:

486A.180 1. Except as otherwise provided in subsection 4, any person who violates any provision of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** or any regulation adopted pursuant thereto, is guilty of a civil offense and shall pay an administrative fine levied by the Commission of not more than $5,000. Each day of violation constitutes a separate offense.

2. The Commission shall by regulation establish a schedule of administrative fines of not more than $1,000 for lesser violations of any provision of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** or any regulation ~~[in force]~~ ***adopted*** pursuant thereto.

3. Action pursuant to subsection 1 or 2 is not a bar to enforcement of the provisions of NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** and ***any*** regulations ~~[in force]~~ ***adopted*** pursuant thereto, by injunction or other appropriate remedy. The Commission or the Director of the Department may institute and maintain in the name of the State of Nevada any such enforcement proceeding.

4. A person who fails to pay a fine levied pursuant to subsection 1 or 2 within 30 days after the fine is imposed is guilty of a misdemeanor. The provisions of this subsection do not apply to a person found by the court to be indigent.

5. The Commission and the Department shall deposit all money collected pursuant to this section in the State General Fund. Money deposited in the State General Fund pursuant to this subsection must be accounted for separately and may only be expended upon legislative appropriation.

Sec. 12. NRS 486A.200 is hereby amended to read as follows:

486A.200 1. After consulting with the Department of Business and Industry, the Department may, within limits of legislative appropriations or authorizations or grants available for this purpose, develop and carry out a program to provide incentives to encourage those persons who are not otherwise required to do so pursuant to NRS 486A.010 to 486A.180, inclusive, ***and section 1 of this act*** to ~~[use clean-burning fuel in motor vehicles.]~~ ***acquire clean vehicles and motor vehicles that use alternative fuels.*** The program may include, without limitation, a method of educating the members of the general public concerning:

(a) The program administered by the Department; and

(b) The benefits of using ~~[clean-burning fuel in]~~ ***clean vehicles and*** motor vehicles ~~[.]~~ ***that use alternative fuels.***

2. The Department may adopt regulations to carry out the provisions of this section.

3. As used in this section:

(a) ~~["Clean-burning fuel" has the meaning ascribed to alternative fuel in 10 C.F.R. 490.2.]~~ ***"Clean vehicle" has the meaning ascribed to it in section 1 of this act.***

(b) "Department" means the State Department of Conservation and Natural Resources.

(c) "Motor vehicle" has the meaning ascribed to it in NRS 365.050.

Sec. 13. (Deleted by amendment.)

Sec. 14. NRS 486A.040, 486A.060 and 486A.090 are hereby repealed.

Sec. 15. This act becomes effective on July 1, 2009.

TEXT OF REPEALED SECTIONS

486A.040 "Bi-fueled motor vehicle" defined. "Bi-fueled motor vehicle" means a motor vehicle that is capable of operating on either a clean-burning alternative fuel or a traditional fuel, including, but not limited to, gasoline or diesel fuel.

486A.060 "Dedicated alternative fuel motor vehicle" defined. "Dedicated alternative fuel motor vehicle" means a motor vehicle that:

1. Operates only on an alternative fuel; or

2. Regardless of the type of fuel on which it operates, has been certified by the United States Environmental Protection Agency as being in compliance with the standards for the control of emissions from an ultra low-emission vehicle, or more stringent standards, as set forth in 40 C.F.R. 88.104-94 or 88.105-94.

486A.090 "Flexible fueled vehicle" defined. "Flexible fueled vehicle" means a motor vehicle that is capable of operating on any mixture of an

alternative fuel and a traditional fuel, including, but not limited to, gasoline or diesel fuel.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 338.

Bill read second time.

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

Amendment No. 785.

AN ACT relating to property; authorizing a landlord who leases or subleases any commercial premises to dispose of any abandoned personal property left on the commercial premises without incurring any civil or criminal liability under certain circumstances; authorizing the landlord to charge and collect certain reasonable and actual costs before releasing the abandoned personal property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason to dispose of any abandoned personal property left on the commercial premises without incurring any civil or criminal liability if the landlord takes ~~[reasonable]~~ **certain** steps to notify any holder of a **perfected** lien or security interest of the existence of the abandoned property and notifies **, by certified mail,** the tenant who left the property on the premises of his intention to dispose of the property. **If the landlord and any holder of a perfected lien or security interest have a written agreement concerning the removal and disposal of abandoned property, that agreement determines the rights and obligations of those parties with respect to the removal and disposal of abandoned property.**

Section 2 of this bill defines "abandoned personal property" as any personal property which is left unattended on the commercial premises after the termination of the tenancy **~~[, unless the owner of the personal property expresses his intent in writing to return for the personal property.]~~ and which is not removed within a certain period after the landlord has provided certain notices to the tenant and any holder of a perfected lien or security interest in the property.** If the abandoned personal property is a vehicle, **section 1** requires the vehicle to be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

Section 1 of this bill also authorizes the landlord to charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, of the abandoned personal property before releasing the abandoned personal property to the tenant or his authorized representative. If the tenant disputes the costs claimed by the landlord, **section 1** authorizes the

dispute to be resolved using the procedure specified in NRS 40.253, as amended by **section 3** of this bill.

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

Section 1. Chapter 118 of NRS is hereby amended by adding thereto a new section to read as follows:

1. ~~*[A]*~~ ***Except as otherwise provided in subsection 2, a landlord who leases or subleases any commercial premises under a rental agreement that has been terminated for any reason may, in accordance with the following provisions, dispose of any abandoned personal property, regardless of its character, left on the commercial premises without incurring any civil or criminal liability:***

(a) The landlord may dispose of the abandoned personal property and recover his reasonable costs out of the abandoned personal property or the value thereof if the conditions set forth in subparagraphs (1) and (2) are satisfied:

(1) ~~*[The landlord has taken reasonable steps to:*~~

~~*(I) Determine whether the abandoned personal property is subject to a lien or security interest; and*~~

~~*(II) If the abandoned personal property is subject to a lien or security interest, notify the holder of the lien or the security interest that the abandoned personal property has been left on the premises.*~~

~~*(2)]*~~ ***The landlord has notified the tenant in writing of his intention to dispose of the abandoned personal property and 14 days have elapsed since the notice was*** ~~*[given]*~~ ***mailed to the tenant. The notice must be mailed , by certified mail, return receipt requested, to the tenant at the tenant's present address, and if that address is unknown, then at the tenant's last known address.***

(2) The landlord has taken reasonable steps to:

(I) Determine whether the tenant has subjected the abandoned personal property to a perfected lien or security interest; and

(II) If the landlord determines that the tenant has subjected the abandoned personal property to a perfected lien or security interest, notify the holder of the perfected lien or the security interest that the abandoned personal property has been left on the premises.

➥ The landlord shall be deemed to have taken the reasonable steps required by subparagraph (2) if the landlord has reviewed the results of a current search of the records in which a financing statement must be filed in order to perfect a lien or security interest pursuant to chapter 104 of NRS for a financing statement naming the tenant as the debtor of a debt secured by the abandoned personal property and, if such a financing statement is found, mailed, to any secured party named on the financing statement at the address indicated on the financing statement, by certified

mail, return receipt requested, a written notice stating that the abandoned personal property has been left on the premises.

(b) The landlord may charge and collect the reasonable and actual costs of inventory, moving and safe storage, if necessary, before releasing the abandoned personal property to the tenant or his authorized representative rightfully claiming the abandoned personal property within the appropriate period set forth in paragraph (a).

(c) Vehicles must be disposed of in the manner provided in chapter 487 of NRS for abandoned vehicles.

2. If a written agreement between a landlord and a secured party who has a perfected lien on, or a perfected security interest in, any abandoned personal property of the tenant contains provisions which relate to the removal and disposal of abandoned personal property, the provisions of the agreement determine the rights and obligations of the landlord and the secured party with respect to the removal and disposal of the abandoned personal property.

3. Any dispute relating to the amount of the costs claimed by the landlord pursuant to paragraph (b) of subsection 1 may be resolved using the procedure provided in subsection 7 of NRS 40.253.

Sec. 2. NRS 118.171 is hereby amended to read as follows:

118.171 As used in NRS 118.171 to 118.205, inclusive, ***and section 1 of this act,*** unless the context otherwise requires:

1. ***"Abandoned personal property" means any personal property which is left unattended on any commercial premises after the termination of the tenancy*** ~~*[, unless the owner of the personal property has expressed an intent in writing to return for the personal property.]*~~ ***and which is not removed by the tenant or a person who has a perfected lien on, or perfected security interest in, the personal property within 14 days after the later of the date on which the landlord:***

(a) Mailed, by certified mail, return receipt requested, notice of his intention to dispose of the personal property, as required by subparagraph (1) of paragraph (a) of subsection 1 of section 1 of this act; or

(b) Provided notice to a person who has a perfected lien on, or a perfected security interest in, the personal property that the personal property has been left on the premises, as required by subparagraph (2) of paragraph (a) of subsection 1 of section 1 of this act.

2. "Real property" includes an apartment, a dwelling, a mobile home that is owned by a landlord and located on property owned by the landlord and commercial premises.

~~[2.]~~ ***3.*** "Rental agreement" means an agreement to lease or sublease real property for a term less than life which provides for the periodic payment of rent.

~~[3.]~~ ***4.*** "Tenant" means a person who has the right to possess real property pursuant to a rental agreement.

Sec. 3. 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 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. 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 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 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 ***or section 1 of this act*** 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 ~~[,]~~ ***or section 1 of this act*** 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.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 350.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 749.

AN ACT relating to business associations; clarifying that an attorney who is a registered agent is not required to report certain privileged information under certain circumstances; increasing the fine imposed on certain foreign business entities that transact business in this State without qualifying to do business in this State; imposing a fine on persons purporting to do business in this State as a business entity without legally forming that entity; making various technical corrections to various provisions relating to business associations; revising the provisions relating to dissenters' rights; revising the provisions relating to the maintenance of certain lists by certain business associations; revising the provisions relating to the proper venue for the posting of certain notices and the filing of certain actions and for certain other purposes; establishing provisions relating to restricted limited-liability companies and restricted limited partnerships; making various other changes to the provisions relating to business associations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires a registered agent to notify the Commissioner of Financial Institutions if the registered agent determines that a represented entity is not properly licensed. (NRS 77.410, 604A.710, 675.380) **Sections 1, 81 and 82** of this bill clarify that a registered agent who is an attorney is not required to make such a notification if doing so would violate the attorney-client privilege.

Sections 16, 36.1, 48.5, 55.5 and 56.4 of this bill: (1) increase from $500 to ~~[$5,000]~~ **a minimum of $1,000 and a maximum of $10,000** the fine imposed on certain foreign business entities that transact business in this State without registering with the Secretary of State or otherwise qualifying to do business in this State; and (2) allow the district attorney or Attorney General to recover the cost of a proceeding to recover the fine if the district attorney or Attorney General prevails in the proceeding. (NRS 80.055, 86.548, 87A.610, 88.600, 88A.750) **Sections 17.6, 36.6, 39.7 and 49.8** of this bill impose the same fine on foreign nonprofit corporations, foreign registered limited-liability partnerships and foreign limited-liability limited partnerships that do business in this State without registering with the Secretary of State.

Sections 1.5, ~~[17.4,]~~ 27.5, 36.4, 39.3, 39.5, 49.4, 49.6, 56.2 and 56.6 of this bill provide that: (1) a person is subject to a fine of ~~[$5,000]~~ **not more than $1,000 but not less than $10,000** if the person is purporting to do business in this State as a business entity ~~[but does not form that entity in accordance with the provisions of existing law;]~~ **and willfully fails or neglects to register with the Secretary of State or file with the Secretary of State certain documents;** and (2) the district attorney or Attorney General may recover the cost of a proceeding to recover the fine if the district attorney or Attorney General prevails in the proceeding.

Sections 2-14 of this bill make technical corrections to various provisions relating to corporations. (Chapter 78 of NRS)

Existing law provides that certain notices for certain purposes must be posted and certain actions must be filed in certain counties where the principal office of the entity is located or, if the principal office is not located in this State, in the district court in Carson City. (NRS 78.275, 78.345, 78.630, 82.306, 82.471, 82.486) **Sections 7, 8, 15, 19, 21 and 22** of this bill provide that instead of the proper venue being the district court in Carson City, the proper venue will lie in the county in which the entity's registered office is located.

Sections 26 and 27 of this bill provide for the formation of a restricted limited-liability company and prescribe the requirements pertaining to such entities. (Chapter 86 of NRS)

Sections 28 and 33 of this bill provide for certain rights of members relating to recordkeeping and the inspection of certain records.

Sections 38, 39 and 49.2 of this bill provide for the formation of a restricted limited partnership and prescribe the requirements pertaining to such entities. (Chapters 87A and 88 of NRS)

Sections 57 and 58 of this bill revise the provisions relating to professional organizations to permit ownership of such entities if at least one stockholder or member is admitted to the State Bar of Nevada. (NRS 89.040, 89.070)

Sections 59-78 of this bill make various changes relating to dissenters' rights, in accordance with recent changes that were made to the Model Business Corporation Act. (Chapter 92A of NRS)

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

Section 1. NRS 77.410 is hereby amended to read as follows:

77.410 1. If a registered agent knows or reasonably should know that the entity for which he is the registered agent engages in any business activity that is regulated pursuant to chapter 604A or 675 of NRS and the registered agent or a subsidiary or affiliate of the registered agent performs any service for the represented entity other than:

(a) Delivering documents for filing to state or local governmental entities;

(b) Forwarding unopened mail;

(c) Any service described in NRS 77.400;

(d) Accounting services incidental to the formation of the entity for which he serves as registered agent provided in accordance with chapter 628 of NRS; or

(e) Legal services incidental to the formation of the entity for which he serves as registered agent if he is an attorney who is licensed to practice law in this State or performs such services under the supervision of an attorney who is licensed to practice law in this State,

➥ the registered agent shall verify with the Division of Financial Institutions of the Department of Business and Industry that the represented entity is licensed pursuant to chapter 604A or 675 of NRS, as applicable.

2. **[**If**]** ***Except as otherwise provided in this subsection, if*** a registered agent determines pursuant to subsection 1 that the represented entity is not licensed as required pursuant to chapter 604A or 675 of NRS, the registered agent shall notify the Commissioner of Financial Institutions. ***This subsection does not require a registered agent who is an attorney to notify the Commissioner if doing so would violate any privilege pursuant to NRS 49.035 to 49.115, inclusive, or the Nevada Rules of Professional Conduct.***

3. A registered agent who accepts an appointment to act as the registered agent for a represented entity whom the registered agent knows or reasonably should know engages in business activities which are regulated pursuant to chapter 604A or 675 of NRS shall not perform any financial transactions on behalf of the represented entity in his capacity as registered agent.

Sec. 1.5. Chapter 78 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Every person, other than a corporation organized and existing pursuant to the laws of another state, territory, the District of Columbia, a possession of the United States or a foreign country, who is purporting to do business in this State as a corporation and who willfully fails or neglects to ~~*[comply]*~~ ***file with the*** ~~*[provisions of NRS 78.030 to 78.045, inclusive, 78A.020, 81.060, 84.015 to 84.040, inclusive, or 89.040, whichever is applicable,]*~~ ***Secretary of State articles of incorporation is subject to a fine of not less than*** ~~*[$5,000,]*~~ ***$1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.***

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 2. NRS 78.130 is hereby amended to read as follows:

78.130 1. Every corporation must have a president, a secretary and a treasurer ~~[.]~~ ***, or the equivalent thereof.***

2. Every corporation may also have one or more vice presidents, assistant secretaries and assistant treasurers, and such other officers and agents as may be deemed necessary.

3. All officers must be natural persons and must be chosen in such manner, hold their offices for such terms and have such powers and duties as may be prescribed by the bylaws or determined by the board of directors. Any natural person may hold two or more offices.

4. An officer holds office after the expiration of his term until a successor is chosen or until his resignation or removal before the expiration of his term. A failure to elect officers does not require the corporation to be dissolved. Any vacancy occurring in an office of the corporation by death, resignation, removal or otherwise, must be filled as the bylaws provide, or in the absence of such a provision, by the board of directors.

Sec. 3. NRS 78.139 is hereby amended to read as follows:

78.139 1. Except as otherwise provided in subsection 2 or the articles of incorporation, directors and officers confronted with a change or potential change in control of the corporation have:

(a) The duties imposed upon them by subsection 1 of NRS 78.138; and

(b) The benefit of the presumptions established by subsection 3 of that section.

2. If directors and officers take action to resist a change or potential change in control of a corporation which impedes the exercise of the right of stockholders to vote for or remove directors:

(a) The directors must have reasonable grounds to believe that a threat to corporate policy and effectiveness exists; and

(b) The action taken which impedes the exercise of the stockholders' rights must be reasonable in relation to that threat.

➥ If those facts are found, the directors and officers have the benefit of the presumption established by subsection 3 of NRS 78.138.

3. The provisions of subsection 2 do not apply to:

(a) Actions that only affect the time of the exercise of stockholders' voting rights; or

(b) The adoption or ~~[execution]~~ ***signing*** of plans, arrangements or instruments that deny rights, privileges, power or authority to a holder of a specified number or fraction of shares or fraction of voting power.

4. The provisions of subsections 2 and 3 do not permit directors or officers to abrogate any right conferred by statute or the articles of incorporation.

5. Directors may resist a change or potential change in control of the corporation if the directors by a majority vote of a quorum determine that the change or potential change is opposed to or not in the best interest of the corporation:

(a) Upon consideration of the interests of the corporation's stockholders and any of the matters set forth in subsection 4 of NRS 78.138; or

(b) Because the amount or nature of the indebtedness and other obligations to which the corporation or any successor to the property of either may become subject, in connection with the change or potential change in control, provides reasonable grounds to believe that, within a reasonable time:

(1) The assets of the corporation or any successor would be or become less than its liabilities;

(2) The corporation or any successor would be or become insolvent; or

(3) Any voluntary or involuntary proceeding pursuant to the federal bankruptcy laws concerning the corporation or any successor would be commenced by any person.

Sec. 4. NRS 78.195 is hereby amended to read as follows:

78.195 1. If a corporation desires to have more than one class or series of stock, the articles of incorporation must prescribe, or vest authority in the board
of directors to prescribe, the classes, series and the number of each class or series of stock and the voting powers, designations, preferences, limitations, restrictions and relative rights of each class or series of stock. If more than one class or series of stock is authorized, the articles of incorporation or the resolution of the board of directors passed pursuant to a provision of the articles must prescribe a distinguishing designation for each class and series. The voting powers, designations, preferences, limitations, restrictions, relative rights and distinguishing designation of each class or series of stock must be described in the articles of incorporation or the resolution of the board of directors before the issuance of shares of that class or series.

2. All shares of a series must have voting powers, designations, preferences, limitations, restrictions and relative rights identical with those of other shares of the same series and, except to the extent otherwise provided in the description of the series, with those of other series of the same class.

3. Unless otherwise provided in the articles of incorporation, no stock issued as fully paid up may ever be assessed and the articles of incorporation must not be amended in this particular.

4. Any rate, condition or time for payment of distributions on any class or series of stock may be made dependent upon any fact or event which may be ascertained outside the articles of incorporation or the resolution providing for the distributions adopted by the board of directors if the manner in which a fact or event may operate upon the rate, condition or time of payment for the distributions is stated in the articles of incorporation or the resolution. As used in this subsection, "fact or event" includes, without limitation, the existence of a fact or occurrence of an event, including, without limitation, a determination or action by a person, the corporation itself or any government, governmental agency or political subdivision of a government.

5. The provisions of this section do not restrict the directors of a corporation from taking action to protect the interests of the corporation and its stockholders, including, but not limited to, adopting or signing plans, arrangements or instruments that grant ~~[rights to stockholders]~~ or ~~[that]~~ deny rights, privileges, power or authority to a holder ***or holders*** of a specified number of shares or percentage of share ownership or voting power.

Sec. 5. NRS 78.205 is hereby amended to read as follows:

78.205 1. A corporation is not obligated to but may sign and deliver a certificate for or including a fraction of a share.

2. In lieu of signing and delivering a certificate for a fraction of a share, a corporation may:

(a) Pay to any person otherwise entitled to become a holder of a fraction of a share an amount in cash based on a per share value, and that value or the method of determining that value must be specified in the articles, plan of reorganization, plan of merger or exchange, resolution of the board of directors, or other instrument pursuant to which the fractional share would otherwise be issued;

(b) Issue such additional fraction of a share as is necessary to increase the fractional share to a full share; or

(c) Sign and deliver registered or bearer scrip over the manual or facsimile signature of an officer of the corporation or of its agent for that purpose, exchangeable as provided on the scrip for full share certificates, but the scrip does not entitle the holder to any rights as a stockholder except as provided on the scrip. The scrip may provide that it becomes void unless the rights of the holders are exercised within a specified period and may contain any other provisions or conditions that the corporation deems advisable. Whenever any scrip ceases to be exchangeable for full share certificates, the shares that would otherwise have been issuable as provided on the scrip are deemed to be treasury shares unless the scrip contains other provisions for their disposition.

3. Any proposed corporate action that would result in ***only*** money ***being paid*** or scrip being ~~[delivered instead of fractional shares]~~ ***issued*** to stockholders who:

(a) Before the proposed corporate action becomes effective, hold 1 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive ~~[fractions of shares]~~ ***a fraction of a share*** in exchange for the cancellation of all their outstanding shares,

➥ is subject to the provisions of NRS 92A.300 to 92A.500, inclusive. If the proposed corporate action is subject to those provisions, any stockholder who is obligated to accept money or scrip rather than receive a fraction of a share resulting from the action taken pursuant to this section may dissent in accordance with ~~[the]~~ ***those*** provisions ~~[of NRS 92A.300 to 92A.500, inclusive,]~~ and obtain payment of the fair value of the fraction of a share to which the stockholder would otherwise be entitled.

Sec. 6. NRS 78.2055 is hereby amended to read as follows:

78.2055 1. Unless otherwise provided in the articles of incorporation, a corporation that desires to decrease the number of issued and outstanding shares of a class or series held by each stockholder of record at the effective date and time of the change without correspondingly decreasing the number of authorized shares of the same class or series may do so if:

(a) The board of directors adopts a resolution setting forth the proposal to decrease the number of issued and outstanding shares of a class or series; and

(b) The proposal is approved by the vote of stockholders holding a majority of the voting power of the affected class or series, or such greater proportion as may be provided in the articles of incorporation, regardless of limitations or restrictions on the voting power of the affected class or series.

2. If the proposal required by subsection 1 is approved by the stockholders entitled to vote, the corporation may reissue its stock in accordance with the proposal after the effective date and time of the change.

3. Except as otherwise provided in this subsection, if a proposed decrease in the number of issued and outstanding shares of any class or series would adversely alter or change any preference, or any relative or other right given to any other class or series of outstanding shares, then the decrease must be approved by the vote, in addition to any vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series whose preference or rights are adversely affected by the decrease, or such greater proportion as may be provided in the articles of incorporation, regardless of limitations or restrictions on the voting power of the adversely affected class or series. The decrease does not have to be approved by the vote of the holders of shares representing a majority of the voting power of each class or series whose preference or rights are adversely affected by the decrease if the articles of incorporation specifically deny the right to vote on such a decrease.

4. Any proposal to decrease the number of issued and outstanding shares of any class or series, if any, that includes provisions pursuant to which only money will be paid or scrip will be issued to stockholders who:

(a) Before the decrease in the number of shares becomes effective, hold 1 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive ~~[fractions of shares]~~ ***a fraction of a share*** in exchange for the cancellation of all their outstanding shares,

➥ is subject to the provisions of NRS 92A.300 to 92A.500, inclusive. If the proposal is subject to those provisions, any stockholder who is obligated to accept money or scrip rather than receive a fraction of a share resulting from the action taken pursuant to this section may dissent in accordance with ~~[the]~~ ***those*** provisions ~~[of NRS 92A.300 to 92A.500, inclusive,]~~ and obtain payment of the fair value of the fraction of a share to which the stockholder would otherwise be entitled.

Sec. 6.5. NRS 78.207 is hereby amended to read as follows:

78.207 1. Unless otherwise provided in the articles of incorporation, a corporation that desires to change the number of shares of a class or series, if any, of its authorized stock by increasing or decreasing the number of authorized shares of the class or series and correspondingly increasing or decreasing the number of issued and outstanding shares of the same class or series held by each stockholder of record at the effective date and time of the change, may, except as otherwise provided in subsections 2 and 3, do so by a resolution adopted by the board of directors, without obtaining the approval of the stockholders. The resolution may also provide for a change of the par value, if any, of the same class or series of the shares increased or decreased. After the effective date and time of the change, the corporation may issue its stock in accordance therewith.

2. A proposal to increase or decrease the number of authorized shares of any class or series, if any, that includes provisions pursuant to which only money will be paid or scrip will be issued to stockholders who:

(a) Before the increase or decrease in the number of shares becomes effective, in the aggregate hold 10 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive ~~[fractions of shares]~~ ***a fraction of a share*** in exchange for the cancellation of all ~~[of]~~ their outstanding shares,

➥ must be approved by the vote of stockholders holding a majority of the voting power of the affected class or series, or such greater proportion as may be provided in the articles of incorporation, regardless of limitations or restrictions on the voting power thereof.

3. Except as otherwise provided in this subsection, if a proposed increase or decrease in the number of authorized shares of any class or series would adversely alter or change any preference or any relative or other right given to any other class or series of outstanding shares, then the increase or decrease must be approved by the vote, in addition to any vote otherwise required, of the holders of shares representing a majority of the voting power of each class or series whose preference or rights are adversely affected by the increase or decrease, regardless of limitations or restrictions on the voting power thereof. The increase or decrease does not have to be approved by the vote of the holders of shares representing a majority of the voting power in each class or series whose preference or rights are adversely affected by the increase or decrease if the articles of incorporation specifically deny the right to vote on such an increase or decrease.

4. Any proposal to increase or decrease the number of authorized shares of any class or series, if any, that includes provisions pursuant to which only money will be paid or scrip will be issued to stockholders who:

(a) Before the increase or decrease in the number of shares becomes effective, hold 1 percent or more of the outstanding shares of the affected class or series; and

(b) Would otherwise be entitled to receive a fraction of a share in exchange for the cancellation of all of their outstanding shares,

➥ is subject to the provisions of NRS 92A.300 to 92A.500, inclusive. If the proposal is subject to those provisions, any stockholder who is obligated to accept money or scrip rather than receive a fraction of a share resulting from the action taken pursuant to this section may dissent in accordance with those provisions and obtain payment of the fair value of the fraction of a share to which the stockholder would otherwise be entitled.

Sec. 7. NRS 78.275 is hereby amended to read as follows:

78.275 1. The directors may at such times and in such amount, as they may from time to time deem the interest of the corporation to require, levy and collect assessments upon the assessable stock of the corporation in the manner provided in this section.

2. Notice of each assessment must be given to the stockholders personally, or by publication once a week for at least 4 weeks, in some newspaper published in the county in which the principal office of the corporation is located or, if the principal office of the corporation is not located in this State, in ~~[Carson City,]~~ ***the county in which the corporation's registered office is located,*** and in a newspaper published in the county wherein the property of the corporation is situated if in this State.

3. If, after the notice has been given, any stockholder defaults in the payment of the assessment upon the shares held by him, so many of those shares may be sold as will be necessary for the payment of the assessment upon all the shares held by him, together with all costs of advertising and expenses of sale. The sale of the shares must be made at the office of the corporation at public auction to the highest bidder, after a notice thereof published for 4 weeks as directed in this section, and a copy of the notice mailed to each delinquent stockholder if his address is known 4 weeks before the sale. At the sale the person who offers to pay the assessment so due, together with the expenses of advertising and sale, for the smallest number of shares, or portion of a share, as the case may be, shall be deemed the highest bidder.

Sec. 8. NRS 78.345 is hereby amended to read as follows:

78.345 1. If any corporation fails to elect directors within 18 months after the last election of directors required by NRS 78.330, the district court has jurisdiction in equity, upon application of any one or more stockholders holding stock entitling them to exercise at least 15 percent of the voting power, to order the election of directors in the manner required by NRS 78.330.

2. The application must be made by petition filed in the county where the principal office of the corporation is located or, if the principal office is not located in this State, in ~~[Carson City,]~~ ***the county in which the corporation's registered office is located,*** and must be brought on behalf of all stockholders desiring to be joined therein. Such notice must be given to the corporation and the stockholders as the court may direct.

3. The directors elected pursuant to this section have the same rights, powers and duties and the same tenure of office as directors elected by the stockholders at the annual meeting held at the time prescribed therefor, next before the date of the election pursuant to this section, would have had.

Sec. 9. NRS 78.350 is hereby amended to read as follows:

78.350 1. Unless otherwise provided in the articles of incorporation, or in the resolution providing for the issuance of the stock adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation, every stockholder of record of a corporation is entitled at each meeting of stockholders thereof to one vote for each share of stock standing in his name on the records of the corporation. If the articles of incorporation, or the resolution providing for the issuance of the stock adopted by the board of directors pursuant to authority expressly vested in it

by the articles of incorporation, provides for more or less than one vote per share for any class or series of shares on any matter, every reference in this chapter to a majority or other proportion of stock shall be deemed to refer to a majority or other proportion of the voting power of all of the shares or those classes or series of shares, as may be required by the articles of incorporation, or in the resolution providing for the issuance of the stock adopted by the board of directors pursuant to authority expressly vested in it by the provisions of the articles of incorporation, or the provisions of this chapter.

2. Unless a period of more than 60 days or a period of less than 10 days is prescribed or fixed in the articles of incorporation, the directors may prescribe a period not exceeding 60 days before any meeting of the stockholders during which no transfer of stock on the books of the corporation may be made, or may fix, in advance, a record date not more than 60 or less than 10 days before the date of any such meeting as the date as of which stockholders entitled to notice of and to vote at such meetings must be determined. Only stockholders of record on that date are entitled to notice or to vote at such a meeting. If a record date is not fixed, the record date is at the close of business on the day before the day on which the first notice is given or, if notice is waived, at the close of business on the day before the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders applies to an adjournment of the meeting unless the board of directors fixes a new record date for the adjourned meeting. The board of directors must fix a new record date if the meeting is adjourned to a date more than 60 days later than the date set for the original meeting.

3. The board of directors may adopt a resolution prescribing a date upon which the stockholders of record entitled to give written consent pursuant to NRS 78.320 must be determined. The date prescribed by the board of directors may not precede or be more than 10 days after the date the resolution is adopted by the board of directors. If the board of directors does not adopt a resolution prescribing a date upon which the stockholders of record entitled to give written consent pursuant to NRS 78.320 must be determined and:

(a) No prior action by the board of directors is required by this chapter or chapter 92A of NRS before the matter is submitted for consideration by the stockholders, the date is the first date on which a valid, written consent is delivered in accordance with the provisions of NRS 78.320.

(b) Prior action by the board of directors is required by this chapter or chapter 92A of NRS before the matter is submitted for consideration by the stockholders, the date is at the close of business on the day the board of directors adopts the resolution.

4. The provisions of this section do not restrict the directors from taking action to protect the interests of the corporation and its stockholders, including, but not limited to, adopting or signing plans, arrangements or

instruments that ***grant or*** deny rights, privileges, power or authority to a holder or holders of a specified number of shares or percentage of share ownership or voting power.

Sec. 10. NRS 78.378 is hereby amended to read as follows:

78.378 1. The provisions of NRS 78.378 to 78.3793, inclusive, apply to any acquisition of a controlling interest in an issuing corporation unless the articles of incorporation or bylaws of the corporation in effect on the 10th day following the acquisition of a controlling interest by an acquiring person provide that the provisions of those sections do not apply to the corporation or to an acquisition of a controlling interest specifically by types of existing or future stockholders, whether or not identified.

2. The articles of incorporation, the bylaws or a resolution adopted by the directors of the issuing corporation may impose stricter requirements on the acquisition of a controlling interest in the corporation than the provisions of NRS 78.378 to 78.3793, inclusive.

3. The provisions of NRS 78.378 to 78.3793, inclusive, do not restrict the directors of an issuing corporation from taking action to protect the interests of the corporation and its stockholders, including, but not limited to, adopting or signing plans, arrangements or instruments that ***grant or*** deny rights, privileges, power or authority to a holder ***or holders*** of a specified number of shares or percentage of share ownership or voting power.

Sec. 11. NRS 78.416 is hereby amended to read as follows:

78.416 "Combination," when used in reference to any resident domestic corporation and any interested stockholder of the resident domestic corporation, means any of the following:

1. Any merger or consolidation of the resident domestic corporation or any subsidiary of the resident domestic corporation with:

(a) The interested stockholder; or

(b) Any other corporation, whether or not itself an interested stockholder of the resident domestic corporation, which is, or after the merger or consolidation would be, an affiliate or associate of the interested stockholder.

2. Any sale, lease, exchange, mortgage, pledge, transfer or other disposition, in one transaction or a series of transactions, to or with the interested stockholder or any affiliate or associate of the interested stockholder of assets of the resident domestic corporation or any subsidiary of the resident domestic corporation:

(a) Having an aggregate market value equal to 5 percent or more of the aggregate market value of all the assets, determined on a consolidated basis, of the resident domestic corporation;

(b) Having an aggregate market value equal to 5 percent or more of the aggregate market value of all the outstanding shares of the resident domestic corporation; or

(c) Representing 10 percent or more of the earning power or net income, determined on a consolidated basis, of the resident domestic corporation.

3. The issuance or transfer by the resident domestic corporation or any subsidiary of the resident domestic corporation, in one transaction or a series of transactions, of any shares of the resident domestic corporation or any subsidiary of the resident domestic corporation that have an aggregate market value equal to 5 percent or more of the aggregate market value of all the outstanding shares of the resident domestic corporation to the interested stockholder or any affiliate or associate of the interested stockholder except under the exercise of warrants or rights to purchase shares offered, or a dividend or distribution paid or made, pro rata to all stockholders of the resident domestic corporation.

4. The adoption of any plan or proposal for the liquidation or dissolution of the resident domestic corporation proposed by, or under any agreement, arrangement or understanding, whether or not in writing, with, the interested stockholder or any affiliate or associate of the interested stockholder.

5. Any:

(a) Reclassification of securities, including, without limitation, any splitting of shares, dividend distributed in shares, or other distribution of shares with respect to other shares, or any issuance of new shares in exchange for a proportionately greater number of old shares;

(b) Recapitalization of the resident domestic corporation;

(c) Merger or consolidation of the resident domestic corporation with any subsidiary of the resident domestic corporation; or

(d) Other transaction, whether or not with or into or otherwise involving the interested stockholder,

➥ proposed by, or under any agreement, arrangement or understanding, whether or not in writing, with, the interested stockholder or any affiliate or associate of the interested stockholder, which has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of any class or series of voting shares or securities convertible into voting shares of the resident domestic corporation or any subsidiary of the resident domestic corporation which is directly or indirectly owned by the interested stockholder or any affiliate or associate of the interested stockholder, except as a result of immaterial changes because of adjustments of fractional shares.

6. Any receipt by the interested stockholder or any affiliate or associate of the interested stockholder of the benefit, directly or indirectly, except proportionately as a stockholder of the resident domestic corporation, of any loan, advance, guarantee, pledge or other financial assistance or any tax credit or other tax advantage provided by or through the resident domestic corporation.

Sec. 12. NRS 78.424 is hereby amended to read as follows:

78.424 ”Market value,” when used in reference to the shares or property of any resident domestic corporation, means:

1. In the case of shares, the highest closing sale price of a share during the 30 days immediately preceding the date in question on the composite tape for shares listed on the New York Stock Exchange, or, if the shares are not

quoted on the composite tape or not listed on the New York Stock Exchange, on the principal United States securities exchange registered under the Securities Exchange Act on which the shares are listed, or, if the shares are not listed on any such exchange, ~~[the highest closing bid quoted with respect to a share during the 30 days preceding the date in question on the National Association of Securities Dealers, Inc.'s, Automated Quotations System or any system then in use, or if no such quotation is available,]~~ the fair market value on the date in question of a share as determined by the board of directors of the resident domestic corporation in good faith.

2. In the case of property other than cash or shares, the fair market value of the property on the date in question as determined by the board of directors of the resident domestic corporation in good faith.

Sec. 13. NRS 78.437 is hereby amended to read as follows:

78.437 NRS 78.411 to 78.444, inclusive, do not apply to any combination with an interested stockholder who:

1. Was an interested stockholder on January 1, 1991; or

2. ~~[Who first]~~ ***First*** became an interested stockholder on the date that the resident domestic corporation first became a resident domestic corporation solely as a result of the corporation becoming a resident domestic corporation.

Sec. 14. NRS 78.438 is hereby amended to read as follows:

78.438 1. Except as otherwise provided in NRS 78.433 to 78.437, inclusive, a resident domestic corporation may not engage in any combination with any interested stockholder of the resident domestic corporation for 3 years after the date that the person first became an interested stockholder unless the combination or the transaction by which the person first became an interested stockholder is approved by the board of directors of the resident domestic corporation before the person first became an interested stockholder.

2. If a proposal in good faith regarding a combination is made in writing to the board of directors of the resident domestic corporation, the board of directors shall respond, in writing, within 30 days or such shorter period, if any, as may be required by the Securities Exchange Act, setting forth its reasons for its decision regarding the proposal.

3. If a proposal in good faith to ~~[purchase shares]~~ ***enter into a transaction by which the person will become an interested stockholder*** is made in writing to the board of directors of the resident domestic corporation, the board of directors, unless it responds affirmatively in writing within 30 days or such shorter period, if any, as may be required by the Securities Exchange Act, is considered to have disapproved the ~~[purchase.]~~ ***transaction.***

Sec. 15. NRS 78.630 is hereby amended to read as follows:

78.630 1. Whenever any corporation becomes insolvent or suspends its ordinary business for want of money to carry on the business, or if its business has been and is being conducted at a great loss and greatly

prejudicial to the interest of its creditors or stockholders, any creditors holding 10 percent of the outstanding indebtedness, or stockholders owning 10 percent of the outstanding stock entitled to vote, may, by petition setting forth the facts and circumstances of the case, apply to the district court of the county in which the principal office of the corporation is located or, if the principal office is not located in this State, to the district court in ~~[Carson City]~~ ***the county in which the corporation's registered office is located*** for a writ of injunction and the appointment of a receiver or receivers or trustee or trustees.

2. The court, being satisfied by affidavit or otherwise of the sufficiency of the application and of the truth of the allegations contained in the petition and upon hearing after such notice as the court by order may direct, shall proceed in a summary way to hear the affidavits, proofs and allegations which may be offered in behalf of the parties.

3. If upon such inquiry it appears to the court that the corporation has become insolvent and is not about to resume its business in a short time thereafter, or that its business has been and is being conducted at a great loss and greatly prejudicial to the interests of its creditors or stockholders, so that its business cannot be conducted with safety to the public, it may issue an injunction to restrain the corporation and its officers and agents from exercising any of its privileges or franchises and from collecting or receiving any debts or paying out, selling, assigning or transferring any of its estate, money, lands, tenements or effects, except to a receiver appointed by the court, until the court otherwise orders.

Sec. 15.3. NRS 78.650 is hereby amended to read as follows:

78.650 1. Any holder or holders of one-tenth of the issued and outstanding stock may apply to the district court ~~[, held in the district where the]~~ ***in the county in which the*** corporation has its principal place of business ~~[,]~~ ***or, if the principal place of business is not located in this State, to the district court in the county in which the corporation's registered office is located,*** for an order dissolving the corporation and appointing a receiver to wind up its affairs, and by injunction restrain the corporation from exercising any of its powers or doing business whatsoever, except by and through a receiver appointed by the court, whenever:

(a) The corporation has willfully violated its charter;

(b) Its trustees or directors have been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(c) Its trustees or directors have been guilty of misfeasance, malfeasance or nonfeasance;

(d) The corporation is unable to conduct the business or conserve its assets by reason of the act, neglect or refusal to function of any of the directors or trustees;

(e) The assets of the corporation are in danger of waste, sacrifice or loss through attachment, foreclosure, litigation or otherwise;

(f) The corporation has abandoned its business;

(g) The corporation has not proceeded diligently to wind up its affairs, or to distribute its assets in a reasonable time;

(h) The corporation has become insolvent;

(i) The corporation, although not insolvent, is for any cause not able to pay its debts or other obligations as they mature; or

(j) The corporation is not about to resume its business with safety to the public.

2. The application may be for the appointment of a receiver, without at the same time applying for the dissolution of the corporation, and notwithstanding the absence, if any there be, of any action or other proceeding in the premises pending in such court.

3. In any such application for a receivership, it is sufficient for a temporary appointment if notice of the same is given to the corporation alone, by process as in the case of an application for a temporary restraining order or injunction, and the hearing thereon may be had after 5 days' notice unless the court directs a longer or different notice and different parties.

4. The court may, if good cause exists therefor, appoint one or more receivers for such purpose, but in all cases directors or trustees who have been guilty of no negligence nor active breach of duty must be preferred in making the appointment. The court may at any time for sufficient cause make a decree terminating the receivership, or dissolving the corporation and terminating its existence, or both, as may be proper.

5. Receivers so appointed have, among the usual powers, all the functions, powers, tenure and duties to be exercised under the direction of the court as are conferred on receivers and as provided in NRS 78.635, 78.640 and 78.645, whether the corporation is insolvent or not.

Sec. 15.7. NRS 78A.020 is hereby amended to read as follows:

78A.020 1. A close corporation must be formed in accordance with NRS 78.030 to 78.055, inclusive, ***and section 1.5 of this act,*** subject to the following requirements:

(a) All of the issued stock of the corporation of all classes, exclusive of treasury shares, must be represented by certificates and must be held of record by a specified number of persons, not to exceed 30.

(b) All of the issued stock of all classes must be subject to one or more of the restrictions on transfer pursuant to NRS 78A.050.

(c) The corporation shall not offer any of its stock of any class that would constitute a public offering within the meaning of the Securities Act of 1933, 15 U.S.C. 77a et seq.

2. The articles of incorporation of a close corporation must:

(a) Set forth the matters required by NRS 78.035 except that the articles must state that there will be no board of directors if so agreed pursuant to NRS 78A.070.

(b) Contain a heading stating the name of the corporation and that it is a close corporation.

3. The articles of incorporation of a close corporation may set forth the qualifications of stockholders by specifying the classes of persons who are entitled to be holders of record of stock of any class, the classes of persons who are not entitled to be holders of record of stock of any class, or both.

4. To determine the number of holders of record of the stock of a close corporation, stock that is held in joint or common tenancy or by community property must be treated as held by one stockholder.

Sec. 16. NRS 80.055 is hereby amended to read as follows:

80.055 1. Every corporation which ***willfully*** fails or neglects to comply with the provisions of NRS 80.010 to 80.040, inclusive ~~[.~~

~~(a) Is]~~ ***, is*** subject to a fine of not less than ~~[~~$500,~~]~~ ~~[$5,000,]~~ ***$1,000 but not more than $10,000,*** to be recovered in a court of competent jurisdiction ***.*** ~~[; and~~

~~(b)]~~ ***2.*** Except as otherwise provided in subsection ~~[2,]~~ ***3, every corporation which fails or neglects to comply with the provisions of NRS 80.010 to 80.040, inclusive,*** may not commence or maintain any action or proceeding in any court of this State until it has fully complied with the provisions of NRS 80.010 to 80.040, inclusive.

~~[2.]~~ ***3.*** An action or proceeding may be commenced by such a corporation if an extraordinary remedy available pursuant to chapter 31 of NRS is all or part of the relief sought. Such an action or proceeding must be dismissed without prejudice if the corporation does not comply with the provisions of NRS 80.010 to 80.040, inclusive, within 45 days after the action or proceeding is commenced.

~~[3.]~~ ***4.*** When the Secretary of State is advised that a corporation is doing business in contravention of NRS 80.010 to 80.040, inclusive, he ~~[shall report that fact to the Governor. The Governor shall,]~~ ***may,*** as soon as practicable, instruct the district attorney of the county where the corporation has its principal place of business or the Attorney General, or both, to institute proceedings to recover any applicable fine provided for in this section. ***If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.***

~~[4.]~~ ***5. The failure of a corporation to comply with the provisions of NRS 80.010 to 80.040, inclusive, does not impair the validity of any contract or act of the corporation, or prevent the corporation from defending any action, suit or proceeding in any court of this State.***

~~[5.]~~ ***6. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 17. NRS 80.190 is hereby amended to read as follows:

80.190 1. Except as otherwise provided in subsection 2, each foreign corporation doing business in this State shall, not later than the month of March in each year, publish a statement of its last calendar year's business in

two numbers or issues of a newspaper published in this State that has a total weekly circulation of at least 1,000. The statement must include:

(a) The name of the corporation.

(b) The name and title of the corporate officer submitting the statement.

(c) The mailing or street address of the corporation's principal office.

(d) The mailing or street address of the corporation's office in this State, if one exists.

~~[(e) The total assets and liabilities of the corporation at the end of the year.]~~

2. If the corporation keeps its records on the basis of a fiscal year other than the calendar, the statement required by subsection 1 must be published not later than the end of the third month following the close of each fiscal year.

3. A corporation which neglects or refuses to publish a statement as required by this section is liable to a penalty of $100 for each month that the statement remains unpublished.

4. Any district attorney in the State or the Attorney General may sue to recover the penalty. The first county suing through its district attorney shall recover the penalty, and if no suit is brought for the penalty by any district attorney, the State may recover through the Attorney General.

Sec. 17.2. Chapter 82 of NRS is hereby amended by adding thereto the provisions of sections 17.4 and 17.6 of this act.

Sec. 17.4. ~~*[1. Every person, other than a foreign nonprofit corporation, who is purporting to do business in this State as a corporation and who fails or neglects to establish a corporation in accordance with the provisions of this section and NRS 81.200, 81.450 or 82.081 to 82.116, inclusive, whichever is applicable, is subject to a fine of not less than $5,000, to be recovered in a court of competent jurisdiction.*~~

~~*2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.*~~

~~*3. The Secretary of State may adopt regulations to administer the provisions of this section.]*~~ **(Deleted by amendment.)**

Sec. 17.6. ***1. Every foreign nonprofit corporation which is doing business in this State and which willfully fails or neglects to qualify to do business in this State in accordance with the laws of this State*** ~~*[:*~~

~~*(a) Is]*~~ ***is subject to a fine of not less than*** ~~*[$5,000,]*~~ ***$1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction .*** ~~*[; and*~~

~~(b)~~ ***2. Except as otherwise provided in subsection*** ~~2,~~ ***3, every foreign nonprofit corporation which is doing business in this State and which fails or neglects to qualify to do business in this State in accordance with the laws of this State may not commence or maintain any action or proceeding in any court of this State until it has qualified to do business in this State.***

~~2.~~ ***3. An action or proceeding may be commenced by such a corporation if an extraordinary remedy available pursuant to chapter 31 of NRS is all or part of the relief sought. Such an action or proceeding must be dismissed without prejudice if the corporation does not qualify to do business in this State within 45 days after the action or proceeding is commenced.***

~~3.~~ ***4. When the Secretary of State is advised that a foreign nonprofit corporation is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign nonprofit corporation has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.***

~~4.~~ ***5. The failure of a foreign nonprofit corporation to qualify to do business in this State in accordance with the laws of this State does not impair the validity of any contract or act of the corporation, or prevent the corporation from defending any action, suit or proceeding in any court of this State.***

~~5.~~ ***6. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 17.8. NRS 82.183 is hereby amended to read as follows:

82.183 1. A corporation shall ~~[~~maintain at its registered office or principal place of business in this State:

~~(a) A current list of its owners of record; or~~

~~(b) A statement indicating where such a list is maintained.~~

~~2. The corporation shall:~~

~~(a) Provide~~] ***provide*** the Secretary of State with the name and contact information of the custodian of the ~~[~~list described in~~]~~ ***members' ledger or duplicate members' ledger kept by the corporation at its registered office pursuant to paragraph (c) of*** subsection 1 ~~[.]~~ ***of NRS 82.181.*** The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

~~[(b) Provide written notice to the Secretary of State within 10 days after any change in the information contained in the list described in subsection 1.~~

~~3.~~] ***2.*** Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a corporation to ~~[~~:

~~(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1; or~~

~~(b) Answer~~] ***answer*** any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

~~[4.~~] ***3.*** If a corporation fails to comply with any requirement pursuant to subsection ~~[3,~~] ***2,*** the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the corporation to transact business in this State.

~~[5.~~] ***4.*** The Secretary of State shall not reinstate or revive the right of a corporation to transact business in this State that was revoked or suspended pursuant to subsection ~~[4]~~ ***3*** unless:

(a) The corporation complies with the requirements of subsection ~~[3;]~~ ***2;*** or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the corporation to transact business in this State.

~~[6.~~] ***5.*** The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 18. NRS 82.206 is hereby amended to read as follows:

82.206 1. Unless otherwise provided in the articles or bylaws, the board of directors may designate one or more committees which, to the extent provided in the ***bylaws or in the*** resolution or resolutions ~~[or in the bylaws,~~] ***designating such committee or committees,*** have and may exercise the powers of the board of directors in the management of the business and affairs of the corporation, and may have power to authorize the seal of the corporation to be affixed to all papers on which the corporation desires to place a seal.

2. The committee or committees may have such name or names as may be stated in the bylaws or as may be determined from time to time by resolution adopted by the board of directors.

3. Each committee must have at least one director. Unless it is otherwise provided in the articles or bylaws, the board of directors may appoint natural persons who are not directors to serve on the committees.

4. No such committee may:

(a) Amend, alter or repeal the bylaws;

(b) Elect, appoint or remove any member of any such committee or any director ~~[or officer]~~ of the corporation;

(c) Amend or repeal the articles, adopt a plan of merger or a plan of consolidation with another corporation;

(d) Authorize the sale, lease or exchange of all of the property and assets of the corporation;

(e) Authorize the voluntary dissolution of the corporation or revoke proceedings therefor;

(f) Adopt a plan for the distribution of the assets of the corporation; or

(g) Amend, alter or repeal any resolution of the board of directors unless it provides by its terms that it may be amended, altered or repealed by a committee.

Sec. 19. NRS 82.306 is hereby amended to read as follows:

82.306 1. If any corporation fails to elect directors within 18 months after the last election of directors required by NRS 82.286, the district court has jurisdiction in equity, upon application of any one or more of the members of the corporation representing 10 percent of the voting power of the members entitled to vote for the election of directors or for the election of delegates who are entitled to elect directors, or 50 members, whichever is less, to order the election of directors as required by NRS 82.286.

2. The application must be made by petition filed in the county where the principal office of the corporation is located or, if the principal office is not located in this State, in ~~[Carson City,]~~ ***the county in which the corporation's registered office is located,*** and must be brought on behalf of all members desiring to be joined therein. Such notice must be given to the corporation and the members as the court may direct.

Sec. 20. NRS 82.336 is hereby amended to read as follows:

82.336 1. A corporation having members entitled to vote on the matter involved must hold a special meeting of delegates or members if:

(a) The board of directors or persons authorized to do so by the articles or bylaws demand such a meeting; or

(b) At least 5 percent of the members demand such a meeting.

➥ The demand must state the purpose for the meeting. Those making the demand on the corporation must sign, date and deliver their demand to the president, chairman of the board or the treasurer of the corporation. The corporation must then immediately give notice of a special meeting of delegates or members as set forth in subsections 2 to 7, inclusive ~~[.]~~ ***, or subsection 9.***

2. Whenever under the provisions of this chapter delegates or members are required or authorized to take any action at a meeting, the notice of the meeting must be in writing and signed by the president or the chairman of the board or a vice president, or the secretary, or an assistant secretary, or by such other person or persons as the bylaws may prescribe or permit or the directors designate.

3. The notice must state the purpose or purposes for which the meeting is called and the time when, and the place, which may be within or without this State, where it is to be held.

4. A copy of the notice must be delivered personally, ~~[or must be]~~ mailed postage prepaid ~~[.]~~ ***or given as provided in subsection 9*** to each delegate or member, as the case may be, entitled to vote at the meeting not less than 10 nor more than 60 days before such meeting. If mailed, it must be directed to the person at his address as it appears upon the records of the corporation. Upon the mailing of any notice the service thereof is complete, and the time of the notice begins to run from the date upon which the notice is deposited in the mail for transmission to the person. Personal delivery of the notice to any officer of a corporation or association, or to any member of a

partnership, constitutes delivery of the notice to the corporation, association or partnership.

5. The articles or bylaws may require that the notice be also published in one or more newspapers.

6. Notice duly delivered or mailed to a delegate or member in accordance with the provisions of this section and the provisions, if any, of the articles or bylaws is sufficient, and in the event of the transfer of a membership after the delivery or mailing and before the holding of the meeting it is not necessary to deliver or mail notice of the meeting to the transferee.

7. Any delegate or member may waive notice of any meeting by a writing signed by him, or his duly authorized attorney, either before or after the meeting.

8. Unless otherwise provided in the articles or bylaws, whenever notice is required to be given, under any provision of this chapter or the articles or bylaws of any corporation, to any member to whom notice of two consecutive annual meetings, and all notices of meetings or of the taking of action by written consent without a meeting to him during the period between those two consecutive annual meetings, have been mailed addressed to him at his address as shown on the records of the corporation and have been returned undeliverable, the giving of further notices to him is not required. Any action or meeting taken or held without notice to that person has the same force and effect as if the notice had been given. If any such person delivers to the corporation a written notice setting forth his current address, the requirement that notice be given to him is reinstated. If the action taken by the corporation is such as to require the filing of a certificate under any of the other sections of this title, the certificate need not state that notice was not given to persons to whom notice was not required to be given pursuant to this subsection.

9. Any notice to members or delegates given by the corporation pursuant to any provision of this chapter, chapter 92A of NRS, the articles of incorporation or the bylaws is effective if given in the same manner that a corporation is required to give notice to its stockholders pursuant to NRS 78.370.

Sec. 21. NRS 82.471 is hereby amended to read as follows:

82.471 1. Whenever any corporation becomes insolvent or suspends its ordinary business for want of funds to carry on the business, or if its business has been and is being conducted at a great loss and greatly prejudicial to the interest of its creditors or members, creditors holding 10 percent of the outstanding indebtedness, or members, if any, having 10 percent of the voting power to elect directors, may, by petition or bill of complaint setting forth the facts and circumstances of the case, apply to the district court of the county in which the principal office of the corporation is located or to the district court in ~~[Carson City]~~ ***the county in which the corporation's registered office is located*** for a writ of injunction and the appointment of a receiver or receivers or trustee or trustees.

2. The court, being satisfied by affidavit or otherwise of the sufficiency of the application and of the truth of the allegations contained in the petition or bill, and upon hearing after such notice as the court by order may direct, shall proceed in a summary way to hear the affidavits, proofs and allegations which may be offered in behalf of the parties.

3. If upon the inquiry it appears to the court that the corporation has become insolvent and is not about to resume its business in a short time thereafter, or that its business has been and is being conducted at a great loss and greatly prejudicial to the interests of its creditors or members, so that its business cannot be conducted with safety to the public, it may issue an injunction to restrain the corporation and its officers and agents from exercising any of its privileges or franchises and from collecting or receiving any debts or paying out, selling, assigning or transferring any of its estate, money, funds, lands, tenements or effects, except to a receiver appointed by the court, until the court otherwise orders.

Sec. 22. NRS 82.486 is hereby amended to read as follows:

82.486 1. The persons described in subsections 2 and 3 may apply to the district court in the district where the corporation has its principal office or, if the principal office is not located in this State, to the district court in ~~[Carson City:]~~ ***the county in which the corporation's registered office is located:***

(a) For an order dissolving the corporation and appointing a receiver to wind up its affairs, and by injunction restrain the corporation from exercising any of its powers or doing business whatsoever, except by or through a receiver appointed by the court; or

(b) For such other equitable relief that is just and proper in the circumstances.

2. A member or members, if any, holding at least one-third of the voting power for the election of directors or a majority of the directors in office, may apply for the relief described in subsection 1 whenever it is established that:

(a) The corporation has willfully violated its charter;

(b) Its trustees or directors have been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(c) Its trustees or directors have been guilty of misfeasance, malfeasance or nonfeasance;

(d) The corporation is unable to conduct its activities or conserve its assets by reason of the act, neglect or refusal to function of any of the directors or trustees;

(e) The assets of the corporation are in danger of waste, misapplication, sacrifice or loss;

(f) The corporation has abandoned its business;

(g) The corporation has not proceeded diligently to wind up its affairs or to distribute its assets in a reasonable time;

(h) The corporation has become insolvent;

(i) The corporation, although not insolvent, is for any cause not able to pay its debts or other obligations as they mature;

(j) The corporation is not about to resume its business with safety to the public;

(k) The period of corporate existence has expired and has not been lawfully extended;

(l) The corporation has solicited property and has failed to use it for the purpose solicited;

(m) The corporation has fraudulently used or solicited property; or

(n) The corporation has exceeded its powers.

3. The Attorney General may apply for the relief described in subsection 1 whenever the corporation is a corporation for public benefit and whenever it is established that:

(a) The corporation has willfully violated its charter;

(b) Its trustees or directors have been guilty of fraud or collusion or gross mismanagement in the conduct or control of its affairs;

(c) The corporation has abandoned its business;

(d) The corporation has become insolvent;

(e) The corporation, although not insolvent, is for any cause not able to pay its debts or other obligations as they mature;

(f) The corporation has solicited property and has failed to use it for the purpose solicited;

(g) The corporation has fraudulently used or solicited property; or

(h) The period of corporate existence has expired and has not been lawfully extended.

4. Any person or superior organization under which the corporation was formed, if expressly authorized to act by the articles, may apply for the relief described in subsection 1 pursuant to the grounds, if any, set forth in the articles.

Sec. 23. (Deleted by amendment.)

Sec. 24. (Deleted by amendment.)

Sec. 25. Chapter 86 of NRS is hereby amended by adding thereto the provisions set forth as sections 26 to 29, inclusive, of this act.

Sec. 26. ***"Restricted limited-liability company" means a limited-liability company organized and existing under this chapter that elects to include the optional provisions permitted by NRS 86.161.***

Sec. 27. ***1. If a limited-liability company has elected in its articles of organization to be a restricted limited-liability company pursuant to NRS 86.161, subject to the provisions of NRS 86.343, and unless otherwise provided in the articles of organization, the company shall not make any distributions to its members with respect to their member's interests until 10 years after:***

(a) The date of formation of the restricted limited-liability company as long as the original articles of organization elected to be treated as a restricted limited-liability company and as long as the company has

remained a restricted limited-liability company since the date of formation; or

(b) The effective date of the amendment to the articles of organization in which the company elected to be treated as a restricted limited-liability company and as long as the company has remained a restricted limited-liability company since the effective date of the amendment.

2. The provisions of this section apply as the default provisions of a restricted limited-liability company to the extent the provisions of this section are inconsistent with or add to the other provisions of this chapter and to the extent not otherwise modified in the articles of organization of the restricted limited-liability company.

Sec. 27.5. ***1. Every person, other than a foreign limited-liability company, who is purporting to do business in this State as a limited-liability company and who willfully fails or neglects to [form the limited-liability company in accordance with the provisions of NRS 86.151 or 89.040, whichever is applicable,] file with the Secretary of State articles of organization is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.***

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 28. ***1. The rights authorized by NRS 86.241 may be denied to a member or manager, as the case may be, or to such person's attorney or other agent, upon the refusal of the member or manager to furnish to the limited-liability company an affidavit that the provision or examination of records is not desired for a purpose which is in the interest of a business or object other than the business of the company and that such person has not at any time sold or offered for sale any list of members of any domestic or foreign limited-liability company or any list of stockholders of any domestic or foreign corporation or aided or abetted any person in procuring any such record for any such purpose.***

2. Any action to enforce any rights arising under NRS 86.241 must be brought in the district court for the county in which the limited-liability company has its principal place of business or if such principal office is not located in this State, the county in which the company's registered office is located. If the company refuses to permit a member to obtain or a manager to examine the records described in NRS 86.241 or does not reply to a

demand within 10 business days after the demand has been made, the demanding member or manager may apply to the district court for an order to compel such action.

3. The district court has exclusive jurisdiction to determine whether or not the person seeking such records is entitled to the records sought. The district court may:

(a) Order the limited-liability company to permit the demanding member to obtain or manager to examine the records described in NRS 86.241 and to make copies or abstracts therefrom;

(b) Order the company to furnish to the demanding member or manager the records described in NRS 86.241 on the condition that the demanding member or manager first pay to the company the reasonable cost of obtaining and furnishing such records and on such other conditions as the district court deems appropriate;

(c) In its discretion, prescribe any limitations or conditions with reference to the obtaining or examining of records, or award such other or further relief including an award of attorney's fees and costs to the prevailing party in the dispute as the district court may deem just and proper; or

(d) Order records, pertinent extracts therefrom, or duly authenticated copies thereof, to be brought within this State and kept in this State upon such terms and conditions as the order may prescribe.

4. It is a defense to any action for penalties or damages under this section that the person bringing such action has at any time sold or offered for sale any list of members of any domestic or foreign limited-liability company or any list of stockholders of any domestic or foreign corporation, or has aided or abetted any person in procuring any such record for any such purpose, or that the person bringing such action desired inspection for a purpose which is in the interest of a business or object other than the business of the company.

5. This section does not impair the power or jurisdiction of any court to compel the production for examination of the records of a limited-liability company in any proper case.

Sec. 29. ***1. A person is admitted as an initial member of a limited-liability company:***

(a) If the company is a limited-liability company managed by its members, upon the filing of the articles of organization with the Secretary of State or upon a later date specified in the articles of organization; or

(b) If the company is a limited-liability company managed by a manager or managers, as of the time set forth in and upon compliance with the operating agreement or, if the operating agreement does not so provide or if the company has no operating agreement, as of the time of such person's admission as reflected in the records of the company.

2. Unless otherwise provided in the articles of organization, after the admission of the initial member or members of a limited-liability company in accordance with subsection 1, a person is admitted as a member:

(a) In the case of a person who is not a transferee of a member's interest, including a person being admitted as a noneconomic member and a person acquiring a member's interest directly from the company, as of the time set forth in and upon compliance with the operating agreement or, if the operating agreement does not so provide or if the company has no operating agreement, upon the consent of all the members and as of the time of such person's admission as reflected in the records of the company;

(b) In the case of a transferee of a member's interest who is a substituted member pursuant to NRS 86.351, as provided in NRS 86.351 or 86.491 and as of the time set forth in and upon compliance with the operating agreement or, if the operating agreement does not so provide or if the company has no operating agreement, as of the time of such person's admission as reflected in the records of the company;

(c) In the case of a person being admitted as a member of a surviving or resulting limited-liability company pursuant to a merger, conversion or exchange approved in accordance with NRS 92A.150, as of the time set forth in and upon compliance with the operating agreement of the surviving or resulting limited-liability company or in the plan of merger, conversion or exchange, and in the event of any inconsistency, the terms of the plan of merger, conversion or exchange control; and

(d) In the case of a person being admitted as a member of a limited-liability company pursuant to a merger, conversion or exchange in which such limited-liability company is not the surviving or resulting entity, as of the time set forth in and upon compliance with the operating agreement of such limited-liability company.

3. In connection with the domestication of an undomesticated organization as a limited-liability company in this State in accordance with NRS 92A.270, a person is admitted as a member of the company as of the time set forth in and upon compliance with the articles of domestication or in the operating agreement of the resulting domestic limited-liability company or, if the articles of domestication and the operating agreement do not so provide or if the articles of domestication do not so provide and the company has no operating agreement, as of the time of such person's admission as reflected in the records of the resulting domestic limited-liability company.

4. Unless otherwise provided in the articles of organization, the operating agreement or another agreement approved or adopted by all of the members, no member has a preemptive right to acquire any unissued member's interests or other interests in a limited liability company.

Sec. 30. NRS 86.011 is hereby amended to read as follows:

86.011 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 86.022 to 86.128, inclusive, ***and section 26 of this act*** have the meanings ascribed to them in those sections.

Sec. 31. NRS 86.061 is hereby amended to read as follows:

86.061 "Limited-liability company" or "company" means a limited-liability company organized and existing under this chapter ~~[.]~~ ***, including a restricted limited-liability company.***

Sec. 32. NRS 86.161 is hereby amended to read as follows:

86.161 1. The articles of organization must set forth:

(a) The name of the limited-liability company;

(b) The information required pursuant to NRS 77.310;

(c) The name and address, either residence or business, of each of the organizers signing the articles;

(d) If the company is to be managed by:

(1) One or more managers, the name and address, either residence or business, of each initial manager; or

(2) The members, the name and address, either residence or business, of each initial member; ~~[and]~~

(e) If the company is to have one or more series of members and the debts or liabilities of any series are to be enforceable against the assets of that series only and not against the assets of another series or the company generally, a statement to that effect and a statement:

(1) Setting forth the relative rights, powers and duties of the series; or

(2) Indicating that the relative rights, powers and duties of the series will be set forth in the operating agreement or established as provided in the operating agreement ~~[.]~~ ***; and***

(f) If the company is to be a restricted limited-liability company, a statement to that effect.

2. The articles may set forth any other provision, not inconsistent with law, which the members elect to set out in the articles of organization for the regulation of the internal affairs of the company, including any provisions which under this chapter are required or permitted to be set out in the operating agreement of the company.

3. It is not necessary to set out in the articles of organization:

(a) The rights of the members to contract debts on behalf of the limited-liability company if the limited-liability company is managed by its members;

(b) The rights of the manager or managers to contract debts on behalf of the limited-liability company if the limited-liability company is managed by a manager or managers; or

(c) Any of the powers enumerated in this chapter.

Sec. 33. NRS 86.241 is hereby amended to read as follows:

86.241 1. Each limited-liability company shall continuously maintain in this State an office, which may but need not be a place of its business in

this State, at which it shall keep, unless otherwise provided by an operating agreement:

(a) A current list of the full name and last known business address of each member and manager, separately identifying the members in alphabetical order and the managers, if any, in alphabetical order;

(b) A copy of the filed articles of organization and all amendments thereto, together with signed copies of any powers of attorney pursuant to which any record has been signed; and

(c) Copies of any then effective operating agreement of the company.

2. ~~[Records kept pursuant to this section are subject to inspection and copying at the reasonable request, and at the expense, of any member during ordinary business hours, unless otherwise provided in an operating agreement.]~~ ***In lieu of keeping at an office in this State the information required in paragraphs (a) and (b) of subsection 1, the limited-liability company may keep a statement with the registered agent setting out the name of the custodian of the information required in paragraphs (a) and (b) of subsection 1, and the present and complete address, including street and number, if any, where the information required in paragraphs (a) and (b) of subsection 1 is kept.***

3. Each member of a limited-liability company is entitled to obtain from the company, from time to time upon reasonable demand, for any purpose reasonably related to the interest of the member as a member of the company:

(a) The records required to be maintained pursuant to subsection 1;

(b) True and, in light of the member's stated purpose, complete records regarding the activities and the status of the business and financial condition of the company;

(c) Promptly after becoming available, a copy of the company's federal, state and local income tax returns for each year;

(d) True and complete records regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each member and which each member has agreed to contribute in the future, and the date on which each became a member; and

(e) Other records regarding the affairs of the company as is just and reasonable under the circumstances and in light of the member's stated purpose for demanding such records.

➥ The right to obtain records under this subsection includes, if reasonable, the right to make copies or abstracts by photographic, xerographic, electronic or other means.

4. Each manager of a limited-liability company managed by a manager or managers is entitled to examine from time to time upon reasonable demand, for a purpose reasonably related to the manager's rights, powers and duties as such, the records described in subsection 3.

5. Any demand by a member or manager under subsection 3 or 4 is subject to such reasonable standards regarding at what time and location and at whose expense records are to be furnished as may be set forth in the articles of organization or in an operating agreement adopted or amended as provided in subsection 8 or, if no such standards are set forth in the articles of organization or operating agreement, the records must be provided or made available for examination, as the case may be, during ordinary business hours, at the company's office required to be maintained pursuant to subsection 1 and at the expense of the demanding member or manager.

6. Any demand by a member or manager under this section must be in writing and must state the purpose of such demand. When a demanding member seeks to obtain or a manager seeks to examine the records described in subsection 3, the demanding member or manager must first establish that:

(a) The demanding member or manager has complied with the provisions of this section respecting the form and manner of making a demand for obtaining or examining such records; and

(b) The records sought by the demanding member or manager are reasonably related to the member's interest as a member or the manager's rights, powers and duties as a manager, as the case may be.

7. In every instance where an attorney or other agent of a member or manager seeks to exercise any right arising under this section on behalf of such member or manager, the demand must be accompanied by a power of attorney signed by the member or manager authorizing the attorney or other agent to exercise such rights on his behalf.

8. The rights of a member to obtain or a manager to examine records as provided in this section may be restricted or denied entirely in the articles of organization or in an operating agreement adopted by all of the members or by the sole member or in any subsequent amendment adopted by all of the members at the time of amendment.

Sec. 34. NRS 86.246 is hereby amended to read as follows:

86.246 1. ~~[In addition to any records required to be kept pursuant to NRS 86.241, a]~~ ***A*** limited-liability company shall maintain at its registered office or principal place of business in this State ~~[:~~

~~(a) A current list of each member and manager; or~~

~~(b) A]~~ ***a*** statement indicating where ~~[such a list]~~ ***the list required pursuant to paragraph (a) of subsection 1 of NRS 86.241*** is maintained.

2. A limited-liability company shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1 ~~[.]~~ ***, if different than the registered agent for such company.*** The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the ~~[information contained in]~~ ***custodian of*** the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited-liability company to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to ***paragraph (a) of*** subsection 1 ~~[,]~~ ***of NRS 86.241;*** or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited-liability company fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the charter of the limited-liability company.

5. The Secretary of State shall not reinstate or revive a charter that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited-liability company complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the charter.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 35. NRS 86.286 is hereby amended to read as follows:

86.286 1. A limited-liability company may, but is not required to, adopt an operating agreement. An operating agreement may be adopted only by the unanimous vote or unanimous written consent of the members, or by the sole member, and the operating agreement must be in writing. ***If any operating agreement provides for the manner in which it may be amended, including by requiring the approval of a person who is not a party to the operating agreement or the satisfaction of conditions, it may be amended only in that manner or as otherwise permitted by law and any attempt to otherwise amend the operating agreement shall be deemed void and of no legal force or effect unless otherwise provided in the operating agreement.*** Unless otherwise provided in the operating agreement, amendments to the agreement may be adopted only by the unanimous vote or unanimous written consent of the persons who are members at the time of amendment.

2. An operating agreement may be adopted before, after or at the time of the filing of the articles of organization and, whether entered into before, after or at the time of the filing, may become effective at the formation of the limited-liability company or at a later date specified in the operating agreement. If an operating agreement is adopted:

(a) Before the filing of the articles of organization or before the effective date of formation specified in the articles of organization, the operating

agreement is not effective until the effective date of formation of the limited-liability company.

(b) After the filing of the articles of organization or after the effective date of formation specified in the articles of organization, the operating agreement binds the limited-liability company and may be enforced whether or not the limited-liability company assents to the operating agreement.

3. An operating agreement may provide that a certificate of limited-liability company interest issued by the limited-liability company may evidence a member's interest in a limited-liability company.

4. An operating agreement:

(a) May provide rights to any person, including a person who is not a party to the operating agreement, to the extent set forth therein.

(b) Must be interpreted and construed to give the maximum effect to the principle of freedom of contract and enforceability.

5. To the extent that a member or manager or other person has duties to a limited-liability company, to another member or manager, or to another person that is a party to or is otherwise bound by the operating agreement, the member, manager or other person's duties may be expanded, restricted or eliminated by provisions in the operating agreement, except that an operating agreement may not eliminate the implied contractual covenant of good faith and fair dealing.

6. Unless otherwise provided in an operating agreement, a member or manager or other person is not liable to a limited-liability company, another member or manager, or to another person that is a party to or otherwise bound by an operating agreement for breach of fiduciary duty for the member, manager or other person's good faith reliance on the provisions of the operating agreement.

7. An operating agreement may provide for the limitation or elimination of any and all liabilities for breach of contract and breach of duties of a member, manager or other person to a limited-liability company, to another member or manager, or to another person that is a party to or is otherwise bound by the operating agreement. An operating agreement may not limit or eliminate liability for any act or omission that constitutes a bad faith violation of the implied contractual covenant of good faith and fair dealing.

Sec. 36. NRS 86.291 is hereby amended to read as follows:

86.291 1. Except as otherwise provided in this section or ***in*** the articles of organization ~~[,]~~ ***or operating agreement,*** management of a limited-liability company is vested in its members in proportion to their contribution to its capital, as adjusted from time to time to reflect properly any additional contributions or withdrawals by the members.

2. Unless otherwise provided in the articles of organization or operating agreement, the management of a series is vested in the members associated with the series in proportion to their contribution to the capital of the series, as adjusted from time to time to reflect properly any additional contributions

or withdrawals from the assets or income of the series by the members associated with the series.

3. If provision is made in the articles of organization, management of the company may be vested in a manager or managers, who may but need not be members **.** ~~[, in the manner prescribed by the operating agreement of the company.]~~ The manager or managers ~~[also]~~ ***shall*** hold the offices **,** ~~[and]~~ have the responsibilities ~~[accorded to them by the members and set out in the operating agreement.]~~ ***and otherwise manage the company as set forth in the operating agreement of the company or, if the company has not adopted an operating agreement, then as prescribed by the members.***

Sec. 36.1. NRS 86.548 is hereby amended to read as follows:

86.548 1. ~~[A]~~ ***Every*** foreign limited-liability company transacting business in this State ~~[may]~~ ***which willfully fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 86.544*** ~~[:~~

~~*(a) Is]*~~ ***is subject to a fine of not less than*** ~~*[$5,000,]*~~ ***$1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction*** **.** ~~*[; and*~~

~~*(b) May]*~~

2. Every foreign limited-liability company transacting business in this State which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 86.544 may not ***commence or*** maintain any action, suit or proceeding in any court of this State until it has registered ~~[in this State.]~~ ***with the Secretary of State.***

~~[2.]~~ ***3.*** The failure of a foreign limited-liability company to register ~~[in this State]~~ ***with the Secretary of State*** does not impair the validity of any contract or act of the foreign limited-liability company, or prevent the foreign limited-liability company from defending any action, suit or proceeding in any court of this State.

~~[3.]~~ ***4. When the Secretary of State is advised that a foreign limited-liability company is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign limited-liability company has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.***

~~*[4.]*~~ ***5.*** A foreign limited-liability company, by transacting business in this State without ~~[registration,]~~ ***registering with the Secretary of State,*** appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State by the foreign limited-liability company.

~~*[5.]*~~ ***6. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 36.3. Chapter 87 of NRS is hereby amended by adding thereto the provisions set forth as section 36.4 and 36.6 of this act.

Sec. 36.4. ***1. Every person, other than a foreign registered limited-liability partnership, who is purporting to do business in this State as a registered limited-liability partnership and who willfully fails or neglects to [comply] file with the [provisions of NRS 87.440] Secretary of State a certificate of registration is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.***

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in [this] subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 36.6. ***1. Every foreign registered limited-liability partnership which is doing business in this State and which willfully fails or neglects to register with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive [:***

(a) Is] , is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction . [; and

(b) May]

2. Every foreign registered limited-liability partnership which is doing business in this State and which fails or neglects to register with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive, may not commence or maintain any action, suit or proceeding in any court of this State until it has registered with the Secretary of State pursuant to NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive.

[2.] 3. The failure of a foreign registered limited-liability partnership to register in this State does not impair the validity of any contract or act of the foreign registered limited-liability partnership, or prevent the foreign registered limited-liability partnership from defending any action, suit or proceeding in any court of this State.

[3.] 4. When the Secretary of State is advised that a foreign registered limited-liability partnership is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the foreign registered limited-liability partnership's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney

General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

~~[4.]~~ ***5. A foreign registered limited-liability partnership, by transacting business in this State without registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State by the foreign registered limited-liability partnership.***

~~[5.]~~ ***6. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 36.7. NRS 87.550 is hereby amended to read as follows:

87.550 In addition to any other fees required by NRS 87.440 to 87.540, inclusive, ***and section 36.4 of this act,*** and 87.560, the Secretary of State shall charge and collect the following fees for services rendered pursuant to those sections:

1. For certifying records required by NRS 87.440 to 87.540, inclusive, ***and section 36.4 of this act,*** and 87.560, $30 per certification.

2. For signing a certificate verifying the existence of a registered limited-liability partnership, if the registered limited-liability partnership has not filed a certificate of amendment, $50.

3. For signing a certificate verifying the existence of a registered limited-liability partnership, if the registered limited-liability partnership has filed a certificate of amendment, $50.

4. For signing, certifying or filing any certificate or record not required by NRS 87.440 to 87.540, inclusive, ***and section 36.4 of this act,*** and 87.560, $50.

5. For any copies provided by the Office of the Secretary of State, $2 per page.

6. For examining and provisionally approving any record before the record is presented for filing, $125.

Sec. 36.9. NRS 87.560 is hereby amended to read as follows:

87.560 1. To the extent permitted by the law of that jurisdiction:

(a) A partnership, including a registered limited-liability partnership, formed and existing under this chapter, may conduct its business, carry on its operations, and exercise the powers granted by this chapter in any state, territory, district or possession of the United States or in any foreign country.

(b) The internal affairs of a partnership, including a registered limited-liability partnership, formed and existing under this chapter, including the liability of partners for debts, obligations and liabilities of or chargeable to the partnership, are governed by the law of this State.

2. Subject to any statutes for the regulation and control of specific types of business, a registered limited-liability partnership, formed and existing under the law of another jurisdiction, may do business in this State if it first registers with the Secretary of State pursuant to the provisions of

NRS 87.440 to 87.500, inclusive, and 87.541 to 87.544, inclusive ~~[.]~~ ***, and section 36.6 of this act.***

3. The name of a partnership that is registered as a limited-liability partnership in another jurisdiction and doing business in this State must contain the words "Limited-Liability Partnership" or "Registered Limited-Liability Partnership" or the abbreviations "L.L.P." or "LLP," or such other words or abbreviations as may be required or authorized by the law of the other jurisdiction, as the last words or letters of the name.

Sec. 37. Chapter 87A of NRS is hereby amended by adding thereto the provisions set forth as sections 38 to 39.7, inclusive, of this act.

Sec. 38. ***"Restricted limited partnership" means a limited partnership organized and existing under this chapter that elects to include the optional provisions permitted by NRS 87A.235.***

Sec. 39. ***1. If the limited partnership has elected in its certificate of limited partnership to be a restricted limited partnership pursuant to NRS 87A.235, subject to the provisions of NRS 87A.425, and unless otherwise provided in the certificate of limited partnership, the limited partnership shall not make any distributions to its partners until 10 years after:***

(a) The date of formation of the restricted limited partnership as long as the original certificate of limited partnership elected to be treated as a restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the date of formation; or

(b) The effective date of the amendment to the certificate of limited partnership in which the limited partnership elected to be treated as a restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the effective date of the amendment.

2. The provisions of this section apply as the default provisions of a restricted limited partnership to the extent the provisions of this section are inconsistent with or add to the other provisions of this chapter and to the extent not otherwise modified in the certificate of limited partnership of the restricted limited partnership.

Sec. 39.3. ***1. Every person, other than a foreign limited partnership, who is purporting to do business in this State as a limited partnership and who willfully fails or neglects to*** ~~*[form a limited partnership in accordance with the provisions of NRS 87A.235 or 88.350]*~~ ***file with the Secretary of State a certificate of limited partnership is subject to a fine of not less than*** ~~*[$5,000,]*~~ ***$1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.***

2. When the Secretary of State is advised that a person, other than a foreign limited partnership, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district

attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 39.5. ***1. Every person, other than a limited-liability limited partnership formed pursuant to an agreement governed by the laws of another state, who is purporting to do business in this State as a registered limited-liability limited partnership and who willfully fails or neglects to [comply] file with the [provisions of NRS 87A.630 or 88.606, whichever is applicable,] Secretary of State a certificate of registration is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.***

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 39.7. ***1. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which willfully fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 [:***

(a) Is] is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction . [; and

(b) May]

2. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not commence or maintain any action, suit or proceeding in any court of this State until it has registered in this State.

[2.] 3. The failure of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state and purporting to do business in this State as a foreign registered limited-liability limited partnership, to register with the Secretary of State in

accordance with the provisions of NRS 87A.540 or 88.575 does not impair the validity of any contract or act of the limited-liability limited partnership or prevent the limited-liability limited partnership from defending any action, suit or proceeding in any court of this State.

~~[3.]~~ ***4. When the Secretary of State is advised that a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the limited-liability limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.***

~~[4.]~~ ***5. A limited partner of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is not liable as a general partner of the limited-liability limited partnership solely by reason of having transacted business in this State without registration.***

~~[5.]~~ ***6. A limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, by transacting business in this State without registering with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.***

~~[6.]~~ ***7. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 40. NRS 87A.010 is hereby amended to read as follows:

87A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 87A.015 to 87A.140, inclusive, ***and section 38 of this act*** have the meanings ascribed to them in those sections.

Sec. 41. NRS 87A.060 is hereby amended to read as follows:

87A.060 "Limited partnership," except in the phrases "foreign limited partnership," "foreign limited-liability limited partnership" and "foreign registered limited-liability limited partnership," means an entity, having one or more general partners and one or more limited partners, which is formed under this chapter by two or more persons. The term includes a registered limited-liability limited partnership ~~[.]~~ ***and a restricted limited partnership.***

Sec. 41.5. NRS 87A.100 is hereby amended to read as follows:

87A.100 "Registered limited-liability limited partnership" means a limited partnership:

1. Formed pursuant to an agreement governed by this chapter; and

2. Registered pursuant to and complying with NRS 87A.630 to 87A.655, inclusive ~~[.]~~ ***, and sections 39.5 and 39.7 of this act.***

Sec. 42. NRS 87A.195 is hereby amended to read as follows:

87A.195 A limited partnership shall maintain at its designated office the following information:

1. A current list showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order.

2. A copy of the certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment or restatement has been signed.

3. A copy of any filed articles of conversion or merger.

4. A copy of the limited partnership's federal, state and local income tax returns and reports, if any, for the 3 most recent years.

5. A copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement.

6. A copy of any financial statement of the limited partnership for the 3 most recent years.

7. A copy of the three most recent annual lists filed with the Secretary of State pursuant to NRS 87A.290.

8. A copy of any record made by the limited partnership during the past 3 years of any consent given by or vote taken of any partner pursuant to this chapter or the partnership agreement.

9. Unless contained in a partnership agreement made in a record, a record stating:

(a) The amount of cash, and a description and statement of the agreed value of the other benefits, contributed and agreed to be contributed by each partner;

(b) The times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;

(c) For any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and

(d) Any events upon the happening of which the limited partnership is to be dissolved and its activities wound up.

➥ ***In lieu of keeping at the designated office the information required in subsections 1, 4 and 6 to 9, inclusive, the limited partnership may keep a statement with the registered agent setting out the name of the custodian of the information required in subsections 1, 4 and 6 to 9, inclusive, and the present and complete post office address, including street and number, if any, where the information required in subsections 1, 4 and 6 to 9, inclusive, is kept.***

Sec. 43. NRS 87A.200 is hereby amended to read as follows:

87A.200 1. A limited partnership shall maintain at its registered office or principal place of business in this State ~~[~~:

~~(a) A current list of each general partner; or~~

~~(b) A~~ ***a*** statement indicating where ~~[such a list]~~ ***the list required pursuant to subsection 1 of NRS 87A.195*** is maintained.

2. The limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1 ~~[.]~~ ***, if different than the registered agent for such limited partnership.*** The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the ~~[information contained in]~~ ***custodian of*** the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to subsection 1 ~~[,]~~ ***of NRS 87A.195;*** or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 44. NRS 87A.235 is hereby amended to read as follows:

87A.235 1. In order for a limited partnership to be formed, a certificate of limited partnership must be delivered to the Secretary of State for filing. The certificate must state:

(a) The name of the limited partnership;

(b) The information required pursuant to NRS 77.310;

(c) The name and the street and mailing address of each general partner; ~~[and]~~

(d) Any additional information required by chapter 92A of NRS ~~[.]~~ ***; and***

(e) If the limited partnership is to be a restricted limited partnership, a statement to that effect.

2. A certificate of limited partnership may also contain any other matters but may not vary or otherwise affect the provisions specified in subsection 2 of NRS 87A.190 in a manner inconsistent with that section.

3. If there has been substantial compliance with subsection 1, a limited partnership is formed on the later of the filing of the certificate of limited partnership or a date specified in the certificate of limited partnership.

4. Subject to subsection 2, if any provision of a partnership agreement is inconsistent with the filed certificate of limited partnership or with a filed certificate of withdrawal, certificate of cancellation or statement of change or filed articles of conversion or merger:

(a) The partnership agreement prevails as to partners and transferees; and

(b) The filed certificate of limited partnership, certificate of withdrawal, certificate of cancellation or statement of change or articles of conversion or merger prevail as to persons, other than partners and transferees, that reasonably rely on the filed record to their detriment.

Sec. 45. NRS 87A.535 is hereby amended to read as follows:

87A.535 Subject to the Constitution of this State:

1. The laws of the state or jurisdiction under which a foreign limited partnership is organized govern ~~[~~:

~~(a) Relations among the partners of the foreign limited partnership and between the partners and the foreign limited partnership; and~~

~~(b) The liability of partners as partners for an obligation of the foreign limited partnership; and~~] ***its organization, internal affairs and the liability of its limited partners.***

2. A foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this State.

Sec. 46. NRS 87A.550 is hereby amended to read as follows:

87A.550 Except as otherwise provided in NRS 87A.655, a foreign limited partnership may register with the Secretary of State under any name, whether or not it is the name under which it is registered in its state of organization, that ~~[includes without abbreviation]~~ ***contains*** the words "limited partnership" ***or the abbreviations "L.P." or "LP"*** and that could be registered by a domestic limited partnership.

Sec. 47. NRS 87A.575 is hereby amended to read as follows:

87A.575 1. Each list required to be filed under the provisions of NRS 87A.560 to 87A.600, inclusive, must, after the name of each ~~[managing]~~ ***general*** partner listed thereon, set forth the address, either residence or business, of each ~~[managing]~~ ***general*** partner.

2. If the addresses are not stated for each person on any list offered for filing, the Secretary of State may refuse to file the list, and the foreign limited partnership for which the list has been offered for filing is subject to all the provisions of NRS 87A.560 to 87A.600, inclusive, relating to failure to file the list within or at the times therein specified, unless a list is subsequently submitted for filing which conforms to the provisions of this section.

Sec. 48. NRS 87A.595 is hereby amended to read as follows:

87A.595 1. Except as otherwise provided in subsections 3 and 4 and NRS 87A.580, the Secretary of State shall reinstate a foreign limited partnership which has forfeited or which forfeits its right to transact business under the provisions of this chapter and shall restore to the foreign limited partnership its right to transact business in this State, and to exercise its privileges and immunities, if it:

(a) Files with the Secretary of State:

(1) The list required by NRS 87A.560;

(2) The statement required by NRS 87A.565, if applicable; and

(3) The information required pursuant to NRS 77.310; and

(b) Pays to the Secretary of State:

(1) The filing fee and penalty set forth in NRS 87A.560 and 87A.585 for each year or portion thereof that its right to transact business was forfeited;

(2) The fee set forth in NRS 87A.565, if applicable; and

(3) A fee of $300 for reinstatement.

2. When the Secretary of State reinstates the foreign limited partnership, he shall issue to the foreign limited partnership a certificate of reinstatement if the foreign limited partnership:

(a) Requests a certificate of reinstatement; and

(b) Pays the required fees pursuant to NRS 87A.315.

3. The Secretary of State shall not order a reinstatement unless all delinquent fees and penalties have been paid and the revocation of the right to transact business occurred only by reason of failure to pay the fees and penalties.

4. If the right of a foreign limited partnership to transact business in this State has been forfeited pursuant to the provisions of this chapter and has remained forfeited for a period of 5 consecutive years, the right is not subject to reinstatement.

5. ~~[If the right of a foreign limited partnership to transact business in this State is reinstated pursuant to this section, the reinstatement relates back to and takes effect on the effective date of the revocation, and the foreign limited partnership's status as a foreign limited partnership continues as if the revocation had never occurred.]~~ ***Except as otherwise provided in NRS 87A.600, a reinstatement pursuant to this section relates back to the date on which the foreign limited partnership forfeited its right to transact business under the provisions of this chapter and reinstates the foreign limited partnership's right to transact business as if such right had at all times remained in full force and effect.***

Sec. 48.5. NRS 87A.610 is hereby amended to read as follows:

87A.610 1. ~~[A]~~ ***Every*** foreign limited partnership transacting business in this State ~~[may]~~ ***which willfully fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575*** ~~[:~~

~~(a) Is~~ ***is subject to a fine of not less than*** *~~[$5,000,]~~* ***$1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction .*** *~~[; and~~*

~~(b) May]~~

2. Every foreign limited partnership transacting business in this State which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not ***commence or*** maintain any action, suit or proceeding in any court of this State until it has registered ~~[in this State.]~~ ***with the Secretary of State.***

~~[2.]~~ ***3.*** The failure of a foreign limited partnership to register ~~[in this State]~~ ***with the Secretary of State*** does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit or proceeding in any court of this State.

~~[3.]~~ ***4. When the Secretary of State is advised that a foreign limited partnership is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover any applicable fine provided for in this section. If the district attorney or the Attorney General prevails in a proceeding to recover a fine pursuant to this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.***

~~[4.]~~ ***5.*** A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this State without registration.

~~[4.]~~ *~~[5.]~~* ***6.*** A foreign limited partnership, by transacting business in this State without ~~[registration,]~~ ***registering with the Secretary of State,*** appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

~~[6.]~~ ***7. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 49. Chapter 88 of NRS is hereby amended by adding thereto the provisions set forth as sections 49.2 to 49.8, inclusive, of this act.

Sec. 49.2. ***1. If the limited partnership has elected in its certificate of limited partnership to be a restricted limited partnership pursuant to NRS 88.350, subject to the provisions of NRS 88.520, and unless otherwise provided in the certificate of limited partnership, the limited partnership shall not make any distributions to its partners with respect to their partnership interests until 10 years after:***

(a) The date of formation of the restricted limited partnership as long as the original certificate of limited partnership elected to be treated as a restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the date of formation; or

(b) The effective date of the amendment to the certificate of limited partnership in which the limited partnership elected to be treated as a restricted limited partnership and as long as the limited partnership has remained a restricted limited partnership since the effective date of the amendment.

2. The provisions of this section apply as the default provisions of a restricted limited partnership to the extent the provisions of this section are inconsistent with or add to the other provisions of this chapter and to the extent not otherwise modified in the certificate of limited partnership of the restricted limited partnership.

Sec. 49.4. ***1. Every person, other than a foreign limited partnership, who is purporting to do business in this State as a limited partnership and who willfully fails or neglects to [form a] file with the Secretary of State a certificate of limited partnership [in accordance with the provisions of NRS 87A.235 or 88.350] is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.***

2. When the Secretary of State is advised that a person, other than a foreign limited partnership, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 49.6. ***1. Every person, other than a limited-liability limited partnership formed pursuant to an agreement governed by the laws of another state, who is purporting to do business in this State as a registered limited-liability limited partnership and who willfully fails or neglects to [comply] file with the [provisions of NRS 87A.630 or 88.606, whichever is applicable,] Secretary of State a certificate of registration is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.***

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in this section, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 49.8. ***1. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which willfully fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 [:***

(a) Is] is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction . [; and

(b) May]

2. Every limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, which is purporting to transact business in this State as a foreign registered limited-liability limited partnership and which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not commence or maintain any action, suit or proceeding in any court of this State until it has registered in this State.

[2.] 3. The failure of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state and purporting to do business in this State as a foreign registered limited-liability limited partnership, to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 does not impair the validity of any contract or act of the limited-liability limited partnership or prevent the limited-liability limited partnership from defending any action, suit or proceeding in any court of this State.

[3.] 4. When the Secretary of State is advised that a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the limited-liability limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

[4.] 5. A limited partner of a limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, is not liable as a general partner of the limited-liability limited partnership solely by reason of having transacted business in this State without registration.

[5.] 6. A limited-liability limited partnership, formed pursuant to an agreement governed by the laws of another state, by transacting business in this State without registering with the Secretary of State in accordance with

the provisions of NRS 87A.540 or 88.575, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

~~*[6.]*~~ ***7. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 50. NRS 88.315 is hereby amended to read as follows:

88.315 As used in this chapter, unless the context otherwise requires:

1. "Certificate of limited partnership" means the certificate referred to in NRS 88.350, and the certificate as amended or restated.

2. "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

3. "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in NRS 88.450.

4. "Foreign limited partnership" means a partnership formed under the laws of any state other than this State and having as partners one or more general partners and one or more limited partners.

5. "Foreign registered limited-liability limited partnership" means a foreign limited-liability limited partnership:

(a) Formed pursuant to an agreement governed by the laws of another state; and

(b) Registered pursuant to and complying with NRS 88.570 to 88.605, inclusive, and 88.609.

6. "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

7. "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

8. "Limited partnership" and "domestic limited partnership" mean a partnership formed by two or more persons under the laws of this State and having one or more general partners and one or more limited partners ~~[.]~~ ***, including a restricted limited partnership.***

9. "Partner" means a limited or general partner.

10. "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

11. "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

12. "Record" means information that is inscribed on tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

13. "Registered limited-liability limited partnership" means a limited partnership:

(a) Formed pursuant to an agreement governed by this chapter; and

(b) Registered pursuant to and complying with NRS 88.350 to 88.415, inclusive, ***and section 49.4 of this act,*** 88.606, 88.6065 and 88.607.

14. "Registered agent" has the meaning ascribed to it in NRS 77.230.

15. "Registered office" means the office maintained at the street address of the registered agent.

16. ***"Restricted limited partnership" means a limited partnership organized and existing under this chapter that elects to include the optional provisions permitted by NRS 88.350.***

17. "Sign" means to affix a signature to a record.

~~[17.]~~ ***18.*** "Signature" means a name, word, symbol or mark executed or otherwise adopted, or a record encrypted or similarly processed in whole or in part, by a person with the present intent to identify himself and adopt or accept a record. The term includes, without limitation, an electronic signature as defined in NRS 719.100.

~~[18.]~~ ***19.*** "State" means a state, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

~~[19.]~~ ***20.*** "Street address" of a registered agent means the actual physical location in this State at which a registered agent is available for service of process.

Sec. 51. NRS 88.3355 is hereby amended to read as follows:

88.3355 1. A limited partnership shall maintain at its registered office or principal place of business in this State ~~[:~~

~~(a) A current list of each general partner; or~~

~~(b) A]~~ ***a*** statement indicating where ~~[such a list]~~ ***the list required pursuant to paragraph (a) of subsection 1 of NRS 88.335*** is maintained.

2. The limited partnership shall:

(a) Provide the Secretary of State with the name and contact information of the custodian of the list described in subsection 1 ~~[.]~~ ***, if different than the registered agent for such limited partnership.*** The information required pursuant to this paragraph shall be kept confidential by the Secretary of State.

(b) Provide written notice to the Secretary of State within 10 days after any change in the ~~[information contained in]~~ ***custodian of*** the list described in subsection 1.

3. Upon the request of any law enforcement agency in the course of a criminal investigation, the Secretary of State may require a limited partnership to:

(a) Submit to the Secretary of State, within 3 business days, a copy of the list required to be maintained pursuant to ***paragraph (a) of*** subsection 1 ~~[,]~~ ***of NRS 88.335;*** or

(b) Answer any interrogatory submitted by the Secretary of State that will assist in the criminal investigation.

4. If a limited partnership fails to comply with any requirement pursuant to subsection 3, the Secretary of State may take any action necessary, including, without limitation, the suspension or revocation of the right of the limited partnership to transact any business in this State.

5. The Secretary of State shall not reinstate or revive the right of a limited partnership to transact any business in this State that was revoked or suspended pursuant to subsection 4 unless:

(a) The limited partnership complies with the requirements of subsection 3; or

(b) The law enforcement agency conducting the investigation advises the Secretary of State to reinstate or revive the right of the limited partnership to transact business in this State.

6. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 52. NRS 88.350 is hereby amended to read as follows:

88.350 1. In order to form a limited partnership, a certificate of limited partnership must be signed and filed in the Office of the Secretary of State. The certificate must set forth:

(a) The name of the limited partnership;

(b) The information required pursuant to NRS 77.310;

(c) The name and business address of each organizer executing the certificate;

(d) The name and business address of each initial general partner;

(e) The latest date upon which the limited partnership is to dissolve; ~~[and]~~

(f) ***If the limited partnership is to be a restricted limited partnership, a statement to that effect; and***

(g) Any other matters the organizers determine to include therein.

2. A limited partnership is formed at the time of the filing of the certificate of limited partnership in the Office of the Secretary of State or at any later time specified in the certificate of limited partnership if there has been substantial compliance with the requirements of this section.

Sec. 52.5. NRS 88.375 is hereby amended to read as follows:

88.375 1. Each certificate required by NRS 88.350 to 88.390, inclusive, ***and section 49.4 of this act,*** to be filed in the Office of the Secretary of State must be signed in the following manner:

(a) An original certificate of limited partnership must be signed by all organizers;

(b) A certificate of amendment must be signed by at least one general partner and by each other general partner designated in the certificate as a new general partner; and

(c) A certificate of cancellation must be signed by all general partners.

2. Any person may sign a certificate by an attorney-in-fact, but a power of attorney to sign a certificate relating to the admission of a general partner must specifically describe the admission.

3. The signing of a certificate by a general partner constitutes an affirmation under the penalties of perjury that the facts stated therein are true.

Sec. 53. NRS 88.570 is hereby amended to read as follows:

88.570 Subject to the constitution of this State:

1. The laws of the state ***or jurisdiction*** under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners; and

2. A foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this State.

Sec. 54. NRS 88.575 is hereby amended to read as follows:

88.575 Before transacting business in this State, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State an application for registration as a foreign limited partnership, signed by a general partner. The application for registration must set forth:

1. The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this State;

2. The state ~~[and date of its formation;]~~ ***or jurisdiction under whose law the foreign limited partnership is organized and the date of its organization.***

3. The information required pursuant to NRS 77.310;

4. A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if the registered agent's authority has been revoked or if the registered agent cannot be found or served with the exercise of reasonable diligence;

5. The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership;

6. The name and business address of each general partner; and

7. The address of the office at which is kept a list of the names and addresses of the limited partners and their capital contributions, together with an undertaking by the foreign limited partnership to keep those records until the foreign limited partnership's registration in this State is cancelled or withdrawn.

Sec. 55. NRS 88.5925 is hereby amended to read as follows:

88.5925 1. Each list required to be filed under the provisions of NRS 88.591 to 88.5945, inclusive, must, after the name of each ~~[managing]~~ ***general*** partner listed thereon, set forth the address, either residence or business, of each ~~[managing]~~ ***general*** partner.

2. If the addresses are not stated for each person on any list offered for filing, the Secretary of State may refuse to file the list, and the foreign limited partnership for which the list has been offered for filing is subject to all the provisions of NRS 88.591 to 88.5945, inclusive, relating to failure to file the list within or at the times therein specified, unless a list is subsequently submitted for filing which conforms to the provisions of this section.

Sec. 55.5. NRS 88.600 is hereby amended to read as follows:

88.600 1. ~~[A]~~ ***Every*** foreign limited partnership transacting business in this State ~~[may]~~ ***which willfully fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575*** ~~[:~~

~~*(a) Is]*~~ ***is subject to a fine of not less than*** ~~*[$5,000;]*~~ ***$1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction .*** ~~*[; and*~~

~~*(b) May]*~~

2. Every foreign limited partnership transacting business in this State which fails or neglects to register with the Secretary of State in accordance with the provisions of NRS 87A.540 or 88.575 may not ***commence or*** maintain any action, suit or proceeding in any court of this State until it has registered in this State.

~~[2.]~~ ***3.*** The failure of a foreign limited partnership to register ~~[in this State]~~ ***with the Secretary of State*** does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit or proceeding in any court of this State.

~~[3.]~~ ***4. When the Secretary of State is advised that a foreign limited partnership is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign limited partnership has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.***

~~*[4.]*~~ ***5.*** A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this State without registration.

~~[4.]~~ ~~*[5.]*~~ ***6.*** A foreign limited partnership, by transacting business in this State without ~~[registration,]~~ ***registering with the Secretary of State,*** appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

~~*[6.]*~~ ***7. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 56. NRS 88.608 is hereby amended to read as follows:

88.608 1. Unless otherwise provided by the ~~[articles of organization]~~ ***certificate of limited partnership*** or partnership agreement, a partner of a registered limited-liability limited partnership is not personally liable for a debt or liability of the registered limited-liability limited partnership unless the trier of fact determines that adherence to the fiction of a separate entity would sanction fraud or promote a manifest injustice.

2. For purposes of this section, the failure of a registered limited-liability limited partnership to observe the formalities or requirements relating to the

management of the registered limited-liability limited partnership, in and of itself, is not sufficient to establish grounds for imposing personal liability on a partner for a debt or liability of the registered limited-liability limited partnership.

Sec. 56.2. Chapter 88A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Every person, other than a foreign business trust, who is purporting to do business in this State as a business trust and who willfully fails or neglects to [comply] file with the [provisions of NRS 88A.210] Secretary of State a certificate of trust is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person, other than a foreign business trust, is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 56.4. NRS 88A.750 is hereby amended to read as follows:

88A.750 1. [A] ***Every*** foreign business trust transacting business in this State [may] ***which willfully fails or neglects to [comply] register with the Secretary of State pursuant to the provisions of NRS 88A.710 [:***

(a) Is] is subject to a fine of not less than [$5,000,] $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction . [; and

(b) May]

2. Every foreign business trust transacting business in this State which fails or neglects to register with the Secretary of State pursuant to the provisions of NRS 88A.710 may not ***commence or*** maintain any action, suit or proceeding in any court of this State until it has registered [in this State.

2.] ***with the Secretary of State.***

3. The failure of a foreign business trust to register [in this State] ***with the Secretary of State*** does not impair the validity of any contract or act of the foreign business trust or prevent the foreign business trust from defending any action, suit or proceeding in any court of this State.

[3.] ***4. When the Secretary of State is advised that a foreign business trust is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county where the foreign business trust has its principal place of business or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine***

described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

~~*[4.]*~~ ***5.*** A foreign business trust, by transacting business in this State without ~~[registration,]~~ ***registering with the Secretary of State,*** appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this State.

~~*[5.]*~~ ***6. The Secretary of State may adopt regulations to administer the provisions of this section.***

Sec. 56.6. Chapter 89 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Every person who is purporting to do business in this State as a professional association and who willfully fails or neglects to ~~[comply]~~ file with the ~~[provisions of NRS 89.210]~~ Secretary of State articles of association is subject to a fine of not less than ~~[$5,000.]~~ $1,000 but not more than $10,000, to be recovered in a court of competent jurisdiction.

2. When the Secretary of State is advised that a person is subject to the fine described in subsection 1, he may, as soon as practicable, instruct the district attorney of the county in which the person's principal place of business is located or the Attorney General, or both, to institute proceedings to recover the fine. If the district attorney or the Attorney General prevails in a proceeding to recover the fine described in subsection 1, the district attorney or the Attorney General is entitled to recover the costs of the proceeding, including, without limitation, the cost of any investigation and reasonable attorney's fees.

3. The Secretary of State may adopt regulations to administer the provisions of this section.

Sec. 56.8. NRS 89.025 is hereby amended to read as follows:

89.025 Except as otherwise provided in NRS 89.200 to 89.270, inclusive, ***and section 56.6 of this act,*** the fees set forth in NRS 78.755 to 78.785, inclusive, apply to professional corporations and the fees set forth in NRS 86.561 apply to professional limited-liability companies.

Sec. 57. NRS 89.040 is hereby amended to read as follows:

89.040 1. One or more persons may organize a professional entity in the manner provided for organizing a corporation pursuant to chapter 78 of NRS or a limited-liability company pursuant to chapter 86 of NRS. Each person organizing the professional entity must, except as otherwise provided in subsection 2 of NRS 89.050, be authorized to perform the professional service for which the professional entity is organized. The articles must contain the following additional information:

(a) The profession to be practiced by means of the professional entity.

(b) The names and addresses, either residence or business, of the original stockholders and directors of the professional corporation or the original members and managers of the professional limited-liability company.

(c) Except as otherwise provided in ~~[paragraph (d) of this subsection,]~~ ***paragraphs (d) and (e),*** a certificate from the regulating board of the profession to be practiced showing that each of the directors, stockholders, managers or members who is a natural person, is licensed to practice the profession.

(d) For a professional entity organized pursuant to this chapter and practicing pursuant to the provisions of NRS 623.349, a certificate from the regulating board or boards of the profession or professions to be practiced showing that control and two-thirds ownership of the professional entity is held by persons registered or licensed pursuant to the applicable provisions of chapter 623, 623A or 625 of NRS. As used in this paragraph, "control" has the meaning ascribed to it in NRS 623.349.

(e) For a professional entity formed pursuant to subsection 5 of NRS 89.070, a certificate from the State Bar of Nevada showing at least one stockholder or member who is a natural person is admitted by the Supreme Court of the State of Nevada to practice law as a member of the State Bar of Nevada.

2. The corporate name of a professional corporation must contain the words "Professional Corporation" or the abbreviation "Prof. Corp.," "P.C." or "PC," or the word "Chartered" or the abbreviation "Chtd.," or "Limited" or the abbreviation "Ltd." The corporate name must contain the last name of one or more of its current or former stockholders.

3. The name of a professional limited-liability company must contain the words "Professional Limited-Liability Company" or the abbreviations "Prof. L.L.C.," "Prof. LLC," "P.L.L.C.," "PLLC," or the word "Chartered" or the abbreviation "Chtd.," or "Limited" or the abbreviation "Ltd." The name of a professional limited-liability company must contain the last name of one or more of its current or former members.

4. The professional entity may render professional services and exercise its authorized powers under a fictitious name if the professional entity has first registered the name in the manner required by chapter 602 of NRS.

Sec. 58. NRS 89.070 is hereby amended to read as follows:

89.070 1. Except as otherwise provided in this section and NRS 623.349:

(a) No professional entity may issue any of its owner's interest to anyone other than a natural person who is licensed to render the same specific professional services as those for which the professional entity was formed.

(b) No owner may enter into a voting trust agreement or any other type of agreement vesting another person with the authority to exercise the voting power of any or all of his owner's interest, unless the other person is licensed to render the same specific professional services as those for which the professional entity was formed.

(c) No owner's interest may be sold or transferred except to a natural person who is eligible to be an owner or to the personal representative or estate of a deceased or legally incompetent stockholder. The personal

representative or estate of the owner may continue to own the owner's interest for a reasonable period, but may not participate in any decisions concerning the rendering of professional services.

➥ The articles, bylaws or operating agreement of the professional entity may provide specifically for additional restrictions on the transfer of an owner's interest and may provide for the redemption or purchase of the owner's interest by the professional entity, its owners or an eligible individual account plan complying with the requirements of subsection 2 at prices and in a manner specifically set forth. An owner may transfer his owner's interest in the professional entity or any other interest in the assets of the professional entity to a revocable trust if he acts as trustee of the revocable trust and any person who acts as cotrustee and is not licensed to perform the services for which the professional entity was formed does not participate in any decisions concerning the rendering of those services.

2. Except as otherwise provided in NRS 623.349, a person not licensed to render the professional services for which the professional entity was formed may own a beneficial interest in any of the assets, including an owner's interest, held for his account by an eligible individual account plan sponsored by the professional entity for the benefit of its employees, which is intended to qualify under section 401 of the Internal Revenue Code, 26 U.S.C. 401, if the terms of the trust are such that the total number of shares which may be distributed for the benefit of persons not licensed to render the professional services for which the professional entity was formed is less than a controlling interest and:

(a) The trustee of the trust is licensed to render the same specific professional services as those for which the professional entity was formed; or

(b) The trustee is not permitted to participate in any decisions concerning the rendering of professional services in his capacity as trustee.

➥ A trustee who is individually an owner may participate in his individual capacity as an owner, manager, director or officer in any decision.

3. Except as otherwise provided in subsection 4, a professional entity in which all the owners who are natural persons are licensed to render the same specific professional service may acquire and hold an owner's interest in another professional entity or in a similar entity organized pursuant to the corresponding law of another state, only if all the owners who are natural persons of the professional entity whose stock is acquired are licensed in that professional entity's state of formation to render the same specific professional service as the owners who are natural persons of the professional entity that acquires the owner's interest.

4. A professional entity practicing pursuant to NRS 623.349 in which all the owners are natural persons, regardless of whether or not the natural persons are licensed to render the same specific professional service, may acquire and hold an owner's interest in another professional entity or in a similar entity organized pursuant to the corresponding law of another state if

control and two-thirds ownership of the business organization or association that is acquired is held by persons registered or licensed pursuant to the applicable provisions of chapter 623, 623A or 625 of NRS. As used in this subsection, "control" has the meaning ascribed to it in NRS 623.349.

5. ***An attorney may form a legal services professional entity that is organized or incorporated in the State of Nevada with one or more natural persons, each of whom is a member in good standing and eligible to practice before the bar of any jurisdiction of the United States, and such legal services entity may issue an owner's interest to a natural person who is a member in good standing and eligible to practice before the bar of any jurisdiction of the United States provided that at least one attorney admitted by the Supreme Court of the State of Nevada to practice law as a member of the State Bar of Nevada owns an owner's interest in the professional entity.***

6. Any act in violation of this section is void and does not pass any rights or privileges or vest any powers, except to an innocent person who is not an owner and who has relied on the effectiveness of the action.

Sec. 59. Chapter 92A of NRS is hereby amended by adding thereto a new section to read as follows:

"Senior executive" means the chief executive officer, chief operating officer, chief financial officer or anyone in charge of a principal business unit or function of a domestic corporation.

Sec. 60. NRS 92A.005 is hereby amended to read as follows:

92A.005 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 92A.007 to 92A.097, inclusive, ***and section 59 of this act*** have the meanings ascribed to them in those sections.

Sec. 61. NRS 92A.180 is hereby amended to read as follows:

92A.180 1. A parent domestic corporation, whether or not for profit, parent domestic limited-liability company, unless otherwise provided in the articles of organization or operating agreement, or parent domestic limited partnership owning at least 90 percent of the outstanding shares of each class of a subsidiary corporation entitled to vote on a merger, 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited-liability company then owned by each class of members entitled to vote on a merger or 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited partnership then owned by both the general partners and each class of limited partners entitled to vote on a merger may merge the subsidiary into itself without approval of the owners of the owner's interests of the parent domestic corporation, ***parent*** domestic limited-liability company or ***parent*** domestic limited partnership or the owners of the owner's interests of ~~[a]~~ ***the*** subsidiary domestic corporation, subsidiary domestic limited-liability company or subsidiary domestic limited partnership.

2. A parent domestic corporation, whether or not for profit, parent domestic limited-liability company, unless otherwise provided in the articles

of organization or operating agreement, or parent domestic limited partnership owning at least 90 percent of the outstanding shares of each class of a subsidiary corporation entitled to vote on a merger, 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited-liability company then owned by each class of members entitled to vote on a merger, or 90 percent of the percentage or other interest in the capital and profits of a subsidiary limited partnership then owned by both the general partners and each class of limited partners entitled to vote on a merger may merge with and into the subsidiary without approval of the owners of the owner's interests of the subsidiary domestic corporation, subsidiary domestic limited-liability company or subsidiary domestic limited partnership.

3. The board of directors of a parent corporation, the managers of a parent limited-liability company with managers unless otherwise provided in the operating agreement, all members of a parent limited-liability company without managers unless otherwise provided in the operating agreement, or all general partners of a parent limited partnership shall adopt a plan of merger that sets forth:

(a) The names of the parent and subsidiary; and

(b) The manner and basis of converting the owner's interests of the disappearing entity into the owner's interests, obligations or other securities of the surviving or any other entity or into cash or other property in whole or in part.

4. The parent shall mail a copy or summary of the plan of merger to each owner of the subsidiary who does not waive the mailing requirement in writing.

5. Articles of merger under this section may not contain amendments to the constituent documents of the surviving entity except that the name of the surviving entity may be changed.

6. The articles of incorporation of a domestic corporation, the articles of organization of a domestic limited-liability company, the certificate of limited partnership of a domestic limited partnership or the certificate of trust of a domestic business trust may forbid that entity from entering into a merger pursuant to this section.

Sec. 62. (Deleted by amendment.)

Sec. 62.5. **NRS 92A.205 is hereby amended to read as follows:**

92A.205 1. After a plan of conversion is approved as required by this chapter, if the resulting entity is a domestic entity, the constituent entity shall deliver to the Secretary of State for filing:

(a) Articles of conversion setting forth:

(1) The name and jurisdiction of organization of the constituent entity and the resulting entity; and

(2) That a plan of conversion has been adopted by the constituent entity in compliance with the law of the jurisdiction governing the constituent entity.

(b) The charter document of the domestic resulting entity required by the applicable provisions of chapter 78, 78A, ***82,*** 86, 87A, 88, 88A or 89 of NRS.

(c) The information required pursuant to NRS 77.310.

2. After a plan of conversion is approved as required by this chapter, if the resulting entity is a foreign entity, the constituent entity shall deliver to the Secretary of State for filing articles of conversion setting forth:

(a) The name and jurisdiction of organization of the constituent entity and the resulting entity;

(b) That a plan of conversion has been adopted by the constituent entity in compliance with the laws of this State; and

(c) The address of the resulting entity where copies of process may be sent by the Secretary of State.

3. If the entire plan of conversion is not set forth in the articles of conversion, the filing party must include in the articles of conversion a statement that the complete signed plan of conversion is on file at the registered office or principal place of business of the resulting entity or, if the resulting entity is a domestic limited partnership, the office described in paragraph (a) of subsection 1 of NRS 87A.215 or paragraph (a) of subsection 1 of NRS 88.330.

4. If the conversion takes effect on a later date specified in the articles of conversion pursuant to NRS 92A.240, the charter document to be filed with the Secretary of State pursuant to paragraph (b) of subsection 1 must state the name and the jurisdiction of the constituent entity and that the existence of the resulting entity does not begin until the later date.

5. Any records filed with the Secretary of State pursuant to this section must be accompanied by the fees required pursuant to this title for filing the charter document.

Sec. 63. NRS 92A.270 is hereby amended to read as follows:

92A.270 1. Any undomesticated organization may become domesticated in this State as a domestic entity by:

(a) Paying to the Secretary of State the fees required pursuant to this title for filing the charter document; and

(b) Filing with the Secretary of State:

(1) Articles of domestication which must be signed by an authorized representative of the undomesticated organization approved in compliance with subsection 6;

(2) The appropriate charter document for the type of domestic entity; and

(3) The information required pursuant to NRS 77.310.

2. The articles of domestication must set forth the:

(a) Date when and the jurisdiction where the undomesticated organization was first formed, incorporated, organized or otherwise created;

(b) Name of the undomesticated organization immediately before filing the articles of domestication;

(c) Name and type of domestic entity as set forth in its charter document pursuant to subsection 1; and

(d) Jurisdiction that constituted the principal place of business or central administration of the undomesticated organization, or any other equivalent thereto pursuant to applicable law,

➥ immediately before filing the articles of domestication.

3. Upon filing the articles of domestication and the charter document with the Secretary of State, and the payment of the requisite fee for filing the charter document of the domestic entity, the undomesticated organization is domesticated in this State as the domestic entity described in the charter document filed pursuant to subsection 1. The existence of the domestic entity begins on the date the undomesticated organization began its existence in the jurisdiction in which the undomesticated organization was first formed, incorporated, organized or otherwise created.

4. The domestication of any undomesticated organization does not affect any obligations or liabilities of the undomesticated organization incurred before its domestication.

5. The filing of the charter document of the domestic entity pursuant to subsection 1 does not affect the choice of law applicable to the undomesticated organization. From the date the charter document of the domestic entity is filed, the law of this State applies to the domestic entity to the same extent as if the undomesticated organization was organized and created as a domestic entity on that date.

6. Before filing articles of domestication, the domestication must be approved in the manner required by:

(a) The document, instrument, agreement or other writing governing the internal affairs of the undomesticated organization and the conduct of its business; and

(b) Applicable foreign law.

7. When a domestication becomes effective, all rights, privileges and powers of the undomesticated organization, all property owned by the undomesticated organization, all debts due to the undomesticated organization, and all causes of action belonging to the undomesticated organization are vested in the domestic entity and become the property of the domestic entity to the same extent as vested in the undomesticated organization immediately before domestication. The title to any real property vested by deed or otherwise in the undomesticated organization is not reverted or impaired by the domestication. All rights of creditors and all liens upon any property of the undomesticated organization are preserved unimpaired and all debts, liabilities and duties of an undomesticated organization that has been domesticated attach to the domestic entity resulting from the domestication and may be enforced against it to the same extent as if the debts, liability and duties had been incurred or contracted by the domestic entity.

8. When an undomesticated organization is domesticated, the domestic entity resulting from the domestication is for all purposes deemed to be the same entity as the undomesticated organization. Unless otherwise agreed by the owners of the undomesticated organization or as required pursuant to applicable foreign law, the domestic entity resulting from the domestication is not required to wind up its affairs, pay its liabilities or distribute its assets. The domestication of an undomesticated organization does not constitute the dissolution of the undomesticated organization. The domestication constitutes a continuation of the existence of the undomesticated organization in the form of a domestic entity. If, following domestication, an undomesticated organization that has become domesticated pursuant to this section continues its existence in the foreign country or foreign jurisdiction in which it was existing immediately before the domestication, the domestic entity and the undomesticated organization are for all purposes a single entity formed, incorporated, organized or otherwise created and existing pursuant to the laws of this State and the laws of the foreign country or other foreign jurisdiction.

9. As used in this section, "undomesticated organization" means any incorporated organization, private law corporation, whether or not organized for business purposes, public law corporation, ***limited-liability company,*** general partnership, registered limited-liability partnership, limited partnership or registered limited-liability limited partnership, proprietorship, joint venture, foundation, business trust, real estate investment trust, common-law trust or any other unincorporated business formed, organized, created or the internal affairs of which are governed by the laws of any foreign country or jurisdiction other than the United States, the District of Columbia or another state, territory, possession, commonwealth or dependency of the United States.

Sec. 64. NRS 92A.320 is hereby amended to read as follows:

92A.320 "Fair value," with respect to a dissenter's shares, means the value of the shares **[**~~immediately~~**]** ***determined:***

1. Immediately before the effectuation of the corporate action to which he objects, excluding any appreciation or depreciation in anticipation of the corporate action unless exclusion would be inequitable **[**~~.~~**]** ***;***

2. Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and

3. Without discounting for lack of marketability or minority status.

Sec. 65. NRS 92A.340 is hereby amended to read as follows:

92A.340 Interest payable pursuant to NRS 92A.300 to 92A.500, inclusive, must be computed from the effective date of the action until the date of payment, at the **[**~~average rate currently paid by the entity on its principal bank loans or, if it has no bank loans, at a rate that is fair and equitable under all of the circumstances.~~**]** ***rate of interest most recently established pursuant to NRS 99.040.***

Sec. 66. NRS 92A.380 is hereby amended to read as follows:

92A.380 1. Except as otherwise provided in NRS 92A.370 and 92A.390, any stockholder is entitled to dissent from, and obtain payment of the fair value of his shares in the event of any of the following corporate actions:

(a) Consummation of a ~~[conversion or]~~ plan of merger to which the domestic corporation is a constituent entity:

(1) If approval by the stockholders is required for the ~~[conversion or]~~ merger by NRS 92A.120 to 92A.160, inclusive, or the articles of incorporation, regardless of whether the stockholder is entitled to vote on the ~~[conversion or]~~ plan of merger; or

(2) If the domestic corporation is a subsidiary and is merged with its parent pursuant to NRS 92A.180.

(b) ***Consummation of a plan of conversion to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be converted.***

(c) Consummation of a plan of exchange to which the domestic corporation is a constituent entity as the corporation whose subject owner's interests will be acquired, if his shares are to be acquired in the plan of exchange.

~~[(c)]~~ ***(d)*** Any corporate action taken pursuant to a vote of the stockholders to the extent that the articles of incorporation, bylaws or a resolution of the board of directors provides that voting or nonvoting stockholders are entitled to dissent and obtain payment for their shares.

~~[(d)]~~ ***(e) Accordance of full voting rights to control shares, as defined in NRS 78.3784, only to the extent provided for pursuant to NRS 78.3793.***

(f) Any corporate action not described in ~~[paragraph (a), (b) or (c)]~~ ***this subsection*** that will result in the stockholder receiving money or scrip instead of fractional shares except where the stockholder would not be entitled to receive such payment pursuant to NRS 78.205, 78.2055 or 78.207.

2. A stockholder who is entitled to dissent and obtain payment pursuant to NRS 92A.300 to 92A.500, inclusive, may not challenge the corporate action creating his entitlement unless the action is unlawful or fraudulent with respect to him or the domestic corporation.

3. From and after the effective date of any corporate action described in subsection 1, no stockholder who has exercised his right to dissent pursuant to NRS 92A.300 to 92A.500, inclusive, is entitled to vote his shares for any purpose or to receive payment of dividends or any other distributions on shares. This subsection does not apply to dividends or other distributions payable to stockholders on a date before the effective date of any corporate action from which the stockholder has dissented.

Sec. 67. NRS 92A.390 is hereby amended to read as follows:

92A.390 1. There is no right of dissent with respect to a plan of merger***, conversion*** or exchange in favor of stockholders of any class or series which ~~[, at the]~~ ***is:***

(a) A covered security under section 18(b)(1)(A) or (B) of the Securities Act of 1933, 15 U.S.C. 77r(b)(1)(A) or (B), as amended;

(b) Traded in an organized market and has at least 2,000 stockholders and a market value of at least $20,000,000, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors and beneficial stockholders owning more than 10 percent of such shares; or

(c) Issued by an open end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and which may be redeemed at the option of the holder at net asset value,

➥ unless the articles of incorporation of the corporation issuing the class or series provide otherwise.

2. The applicability of subsection 1 must be determined as of:

(a) The record date fixed to determine the stockholders entitled to receive notice of and to vote at the meeting ~~[at which the plan of merger or exchange is to be acted on, were either listed on a national securities exchange, included in the national market system by the National Association of Securities Dealers, Inc., or held by at least 2,000 stockholders of record, unless:~~

~~(a) The articles of incorporation of the corporation issuing the shares provide otherwise;]~~ ***of stockholders to act upon the corporate action requiring dissenter's rights;*** or

(b) ~~[The holders of the class or series are required under the plan of merger or exchange to accept for the shares anything except:~~

~~(1) Cash, owner's interests or owner's interests and cash in lieu of fractional owner's interests of:~~

~~(I) The surviving or acquiring entity; or~~

~~(II) Any other entity which, at the effective date of the plan of merger or exchange, were either listed on a national securities exchange, included in the national market system by the National Association of Securities Dealers, Inc., or held of record by a least 2,000 holders of owner's interests of record; or~~

~~(2) A combination of cash and owner's interests of the kind described in sub-subparagraphs (I) and (II) of subparagraph (1) of paragraph (b).~~

~~2.]~~ ***The day before the effective date of such corporate action if there is no meeting of stockholders.***

3. Subsection 1 is not applicable and dissenter's rights are available pursuant to NRS 92A.380 for the holders of any class or series of shares who are required by the terms of the corporate action requiring dissenter's rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in subsection 1 at the time the corporate action becomes effective.

4. There is no right of dissent for any holders of stock of the surviving domestic corporation if the plan of merger does not require action of the stockholders of the surviving domestic corporation under NRS 92A.130.

5. There is no right of dissent for any holders of stock of the parent domestic corporation if the plan of merger does not require action of the stockholders of the parent domestic corporation under NRS 92A.180.

Sec. 68. NRS 92A.400 is hereby amended to read as follows:

92A.400 1. A stockholder of record may assert dissenter's rights as to fewer than all of the shares registered in his name only if he dissents with respect to all shares ***of the class or series*** beneficially owned by any one person and notifies the subject corporation in writing of the name and address of each person on whose behalf he asserts dissenter's rights. The rights of a partial dissenter under this subsection are determined as if the shares as to which he dissents and his other shares were registered in the names of different stockholders.

2. A beneficial stockholder may assert dissenter's rights as to shares held on his behalf only if:

(a) He submits to the subject corporation the written consent of the stockholder of record to the dissent not later than the time the beneficial stockholder asserts dissenter's rights; and

(b) He does so with respect to all shares of which he is the beneficial stockholder or over which he has power to direct the vote.

Sec. 69. NRS 92A.410 is hereby amended to read as follows:

92A.410 1. If a proposed corporate action creating dissenters' rights is submitted to a vote at a stockholders' meeting, the notice of the meeting must state that stockholders are ***, are not*** or may be entitled to assert dissenters' rights under NRS 92A.300 to 92A.500, inclusive ***.*** ~~[, and be accompanied by a copy of those sections.]~~ ***If the domestic corporation concludes that dissenter's rights are or may be available, a copy of NRS 92A.300 to 92A.500, inclusive, must accompany the meeting notice sent to those record stockholders entitled to exercise dissenter's rights.***

2. If the corporate action creating dissenters' rights is taken by written consent of the stockholders or without a vote of the stockholders, the domestic corporation shall notify in writing all stockholders entitled to assert dissenters' rights that the action was taken and send them the dissenter's notice described in NRS 92A.430.

Sec. 70. NRS 92A.420 is hereby amended to read as follows:

92A.420 1. If a proposed corporate action creating dissenters' rights is submitted to a vote at a stockholders' meeting, a stockholder who wishes to assert dissenter's rights ~~[:]~~ ***with respect to any class or series of shares:***

(a) Must deliver to the subject corporation, before the vote is taken, written notice of his intent to demand payment for his shares if the proposed action is effectuated; and

(b) Must not vote ~~[his shares]~~ ***, or cause or permit to be voted, any of his shares of such class or series*** in favor of the proposed action.

2. If a proposed corporate action creating dissenters' rights is taken by written consent of the stockholders, a stockholder who wishes to assert dissenters' rights ***with respect to any class or series of shares*** must not consent to or approve the proposed corporate action ~~[.]~~ ***with respect to such class or series.***

3. A stockholder who does not satisfy the requirements of subsection 1 or 2 and NRS 92A.400 is not entitled to payment for his shares under this chapter.

Sec. 71. NRS 92A.430 is hereby amended to read as follows:

92A.430 1. The subject corporation shall deliver a written dissenter's notice to all stockholders entitled to assert dissenters' rights.

2. The dissenter's notice must be sent no later than 10 days after the ~~[effectuation]~~ ***effective date*** of the corporate action ~~[,]~~ ***specified in NRS 92A.380,*** and must:

(a) State where the demand for payment must be sent and where and when certificates, if any, for shares must be deposited;

(b) Inform the holders of shares not represented by certificates to what extent the transfer of the shares will be restricted after the demand for payment is received;

(c) Supply a form for demanding payment that includes the date of the first announcement to the news media or to the stockholders of the terms of the proposed action and requires that the person asserting dissenter's rights certify whether or not he acquired beneficial ownership of the shares before that date;

(d) Set a date by which the subject corporation must receive the demand for payment, which may not be less than 30 nor more than 60 days after the date the notice is delivered ~~[;]~~ and ***state that the stockholder shall be deemed to have waived the right to demand payment with respect to the shares unless the form is received by the subject corporation by such specified date; and***

(e) Be accompanied by a copy of NRS 92A.300 to 92A.500, inclusive.

Sec. 72. NRS 92A.440 is hereby amended to read as follows:

92A.440 1. A stockholder ~~[to whom]~~ ***who receives*** a dissenter's notice ~~[is sent]~~ ***pursuant to NRS 92A.430 and who wishes to exercise dissenter's rights*** must:

(a) Demand payment;

(b) Certify whether he or the beneficial owner on whose behalf he is dissenting, as the case may be, acquired beneficial ownership of the shares before the date required to be set forth in the dissenter's notice for this certification; and

(c) Deposit his certificates, if any, in accordance with the terms of the notice.

2. ~~[The stockholder who demands payment and deposits his certificates, if any, before the proposed corporate action is taken retains all other rights of a stockholder until those rights are cancelled or modified by the taking of the~~

~~proposed corporate action.]~~ ***If a stockholder fails to make the certification required by paragraph (b) of subsection 1, the subject corporation may elect to treat the stockholder's shares as after-acquired shares under NRS 92A.470.***

3. ***Once a stockholder deposits that stockholder's certificates or, in the case of uncertified shares makes demand for payment, that stockholder loses all rights as a stockholder, unless the stockholder withdraws pursuant to subsection 4.***

4. A stockholder who has complied with subsection 1 may nevertheless decline to exercise dissenter's rights and withdraw from the appraisal process by so notifying the subject corporation in writing by the date set forth in the dissenter's notice pursuant to NRS 92A.430. A stockholder who fails to so withdraw from the appraisal process may not thereafter withdraw without the subject corporation's written consent.

5. The stockholder who does not demand payment or deposit his certificates where required, each by the date set forth in the dissenter's notice, is not entitled to payment for his shares under this chapter.

Sec. 73. NRS 92A.450 is hereby amended to read as follows:

92A.450 ~~[1.]~~ The subject corporation may restrict the transfer of shares not represented by a certificate from the date the demand for their payment is received.

~~[2. The person for whom dissenter's rights are asserted as to shares not represented by a certificate retains all other rights of a stockholder until those rights are cancelled or modified by the taking of the proposed corporate action.]~~

Sec. 74. NRS 92A.460 is hereby amended to read as follows:

92A.460 1. Except as otherwise provided in NRS 92A.470, within 30 days after receipt of a demand for payment, the subject corporation shall pay ***in cash to*** each dissenter who complied with NRS 92A.440 the amount the subject corporation estimates to be the fair value of his shares, plus accrued interest. The obligation of the subject corporation under this subsection may be enforced by the district court:

(a) Of the county where the ***subject*** corporation's principal office is located;

(b) If the ***subject*** corporation's principal office is not located in this State, in ~~[Carson City; or]~~ ***the county in which the corporation's registered office is located; or***

(c) At the election of any dissenter residing or having its principal ***or registered*** office in this State, of the county where the dissenter resides or has its principal ***or registered*** office.

➥ The court shall dispose of the complaint promptly.

2. The payment must be accompanied by:

(a) The subject corporation's balance sheet as of the end of a fiscal year ending not more than 16 months before the date of payment, a statement of income for that year, a statement of changes in the stockholders' equity for

that year ***or, where such financial statements are not reasonably available, then such reasonably equivalent financial information*** and the latest available ~~[interim]~~ ***quarterly*** financial statements, if any;

(b) A statement of the subject corporation's estimate of the fair value of the shares; ***and***

(c) ~~[An explanation of how the interest was calculated;~~

~~(d)]~~ A statement of the dissenter's rights to demand payment under NRS 92A.480 ~~[;]~~ and ***that if any such stockholder does not do so within the period specified, such stockholder shall be deemed to have accepted such payment in full satisfaction of the corporation's obligations under this chapter.***

~~[(e) A copy of NRS 92A.300 to 92A.500, inclusive.]~~

Sec. 75. NRS 92A.470 is hereby amended to read as follows:

92A.470 1. A subject corporation may elect to withhold payment from a dissenter unless he was the beneficial owner of the shares before the date set forth in the dissenter's notice as the ***first*** date of ~~[the first]~~ ***any*** announcement to the news media or to the stockholders of the terms of the proposed action.

2. To the extent the subject corporation elects to withhold payment, ***within 30 days*** after ~~[taking the proposed action, it shall estimate the fair value of the shares, plus accrued interest, and shall offer to pay this amount to each dissenter who agrees to accept it in full satisfaction of his demand. The]~~ ***receipt of a demand for payment, the*** subject corporation shall ~~[send with its offer a statement of its estimate of the fair value of the shares, an explanation of how the interest was calculated, and a statement of the dissenters' right to demand payment pursuant to NRS 92A.480.]~~ ***notify the dissenters described in subsection 1:***

(a) Of the information required by paragraph (a) of subsection 2 of NRS 92A.460;

(b) Of the subject corporation's estimate of fair value pursuant to paragraph (b) of subsection 2 of NRS 92A.460;

(c) That they may accept the subject corporation's estimate of fair value, plus interest, in full satisfaction of their demands or demand appraisal under NRS 92A.480;

(d) That those stockholders who wish to accept such an offer must so notify the subject corporation of their acceptance of the offer within 30 days after receipt of such offer; and

(e) That those stockholders who do not satisfy the requirements for demanding appraisal under NRS 92A.480 shall be deemed to have accepted the subject corporation's offer.

3. Within 10 days after receiving the stockholder's acceptance pursuant to subsection 2, the subject corporation shall pay in cash the amount offered under paragraph (b) of subsection 2 to each stockholder who agreed to accept the subject corporation's offer in full satisfaction of the stockholder's demand.

4. Within 40 days after sending the notice described in subsection 2, the subject corporation shall pay in cash the amount offered under paragraph (b) of subsection 2 to each stockholder described in paragraph (e) of subsection 2.

Sec. 76. NRS 92A.480 is hereby amended to read as follows:

92A.480 1. A dissenter ***paid pursuant to NRS 92A.460 who is dissatisfied with the amount of the payment*** may notify the subject corporation in writing of his own estimate of the fair value of his shares and the amount of interest due, and demand payment of his estimate, less any payment pursuant to NRS 92A.460 **.** ~~[, or]~~ ***A dissenter offered payment pursuant to NRS 92A.470 who is dissatisfied with the offer may*** reject the offer pursuant to NRS 92A.470 and demand payment of the fair value of his shares and interest due **.** ~~[, if he believes that the amount paid pursuant to NRS 92A.460 or offered pursuant to NRS 92A.470 is less than the fair value of his shares or that the interest due is incorrectly calculated.]~~

2. A dissenter waives his right to demand payment pursuant to this section unless he notifies the subject corporation of his demand ***to be paid the dissenter's stated estimate of fair value plus interest under subsection 1*** in writing within 30 days after ***receiving*** the subject ~~[corporation]~~ ***corporation's payment or offer of payment under NRS 92A.460 or 92A.470 and is entitled only to the payment*** made or offered **.** ~~[payment for his shares.]~~

Sec. 77. NRS 92A.490 is hereby amended to read as follows:

92A.490 1. If a demand for payment remains unsettled, the subject corporation shall commence a proceeding within 60 days after receiving the demand and petition the court to determine the fair value of the shares and accrued interest. If the subject corporation does not commence the proceeding within the 60-day period, it shall pay each dissenter whose demand remains unsettled the amount demanded ~~[.]~~ ***by each dissenter pursuant to NRS 92A.480 plus interest.***

2. A subject corporation shall commence the proceeding in the district court of the county where its principal office is located ~~[.]~~ ***in this State.*** If the principal office of the subject corporation is not located in the State, it shall commence the proceeding in the county where the principal office of the domestic corporation merged with or whose shares were acquired by the foreign entity was located. If the principal office of the subject corporation and the domestic corporation merged with or whose shares were acquired is not located in this State, the subject corporation shall commence the proceeding in the district court in ~~[Carson City.]~~ ***the county in which the corporation's registered office is located.***

3. The subject corporation shall make all dissenters, whether or not residents of Nevada, whose demands remain unsettled, parties to the proceeding as in an action against their shares. All parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

4. The jurisdiction of the court in which the proceeding is commenced under subsection 2 is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers have the powers described in the order appointing them, or any amendment thereto. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

5. Each dissenter who is made a party to the proceeding is entitled to a judgment:

(a) For the amount, if any, by which the court finds the fair value of his shares, plus interest, exceeds the amount paid by the subject corporation; or

(b) For the fair value, plus accrued interest, of his after-acquired shares for which the subject corporation elected to withhold payment pursuant to NRS 92A.470.

Sec. 78. NRS 92A.500 is hereby amended to read as follows:

92A.500 1. The court in a proceeding to determine fair value shall determine all of the costs of the proceeding, including the reasonable compensation and expenses of any appraisers appointed by the court. The court shall assess the costs against the subject corporation, except that the court may assess costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously or not in good faith in demanding payment.

2. The court may also assess the fees and expenses of the counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the subject corporation and in favor of all dissenters if the court finds the subject corporation did not substantially comply with the requirements of NRS 92A.300 to 92A.500, inclusive; or

(b) Against either the subject corporation or a dissenter in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously or not in good faith with respect to the rights provided by NRS 92A.300 to 92A.500, inclusive.

3. If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the subject corporation, the court may award to those counsel reasonable fees to be paid out of the amounts awarded to the dissenters who were benefited.

4. In a proceeding commenced pursuant to NRS 92A.460, the court may assess the costs against the subject corporation, except that the court may assess costs against all or some of the dissenters who are parties to the proceeding, in amounts the court finds equitable, to the extent the court finds that such parties did not act in good faith in instituting the proceeding.

5. ***To the extent the subject corporation fails to make a required payment pursuant to NRS 92A.460, 92A.470 or 92A.480, the dissenter may bring a cause of action directly for the amount owed and, to the extent the dissenter prevails, is entitled to recover all expenses of the suit.***

6. This section does not preclude any party in a proceeding commenced pursuant to NRS 92A.460 or 92A.490 from applying the provisions of N.R.C.P. 68 or NRS 17.115.

Sec. 79. NRS 104.9620 is hereby amended to read as follows:

104.9620 1. Except as otherwise provided in subsection 7, a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(a) The debtor consents to the acceptance under subsection 3;

(b) The secured party does not receive, within the time set forth in subsection ~~[5,]~~ ***4,*** a notification of objection to the proposal authenticated by:

(1) A person to which the secured party was required to send a proposal under NRS 104.9621; or

(2) Any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(c) If the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(d) Subsection 5 does not require the secured party to dispose of the collateral.

2. A purported or apparent acceptance of collateral under this section is ineffective unless:

(a) The secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(b) The conditions of subsection 1 are met.

3. For purposes of this section:

(a) A debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if he agrees to the terms of the acceptance in a record authenticated after default; and

(b) A debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if he agrees to the terms of the acceptance in a record authenticated after default or the secured party:

(1) Sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(2) In the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(3) Does not receive a notification of objection authenticated by the debtor within 20 days after the proposal is sent.

4. To be effective under paragraph (b) of subsection 1, a notification of objection must be received by the secured party:

(a) In the case of a person to which the proposal was sent pursuant to NRS 104.9621, within 20 days after notification was sent to him; and

(b) In other cases:

(1) Within 20 days after the last notification was sent pursuant to NRS 104.9621; or

(2) If a notification was not sent, before the debtor consents to the acceptance under subsection 3.

5. A secured party that has taken possession of collateral shall dispose of the collateral pursuant to NRS 104.9610 within the time specified in subsection 6 if:

(a) Sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(b) Sixty percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

6. To comply with subsection 5, the secured party shall dispose of the collateral:

(a) Within 90 days after taking possession; or

(b) Within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

7. In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

Sec. 80. NRS 602.020 is hereby amended to read as follows:

602.020 1. A certificate filed pursuant to NRS 602.010 or a renewal certificate filed pursuant to NRS 602.035 must state the assumed or fictitious name under which the business is being conducted or is intended to be conducted, and if conducted by:

(a) A natural person:

(1) His full name;

(2) The street address of his residence or business; and

(3) If the mailing address is different from the street address, the mailing address of his residence or business;

(b) An artificial person ***:*** ***[***~~required to make annual filings with the Secretary of State to retain its good standing:~~***]***

(1) Its name ***;*** ***[***~~as it appears in the records of the Secretary of State;~~***]*** and

(2) Its mailing address;

(c) A general partnership:

(1) The full name of each partner who is a natural person;

(2) The street address of the residence or business of each partner who is a natural person;

(3) If the mailing address is different from the street address, the mailing address of the residence or business of each partner who is a natural person; and

(4) If one or more of the partners is an artificial person described in paragraph (b), the information required by paragraph (b) for each such partner; or

(d) A trust:

(1) The full name of each trustee of the trust;

(2) The street address of the residence or business of each trustee of the trust; and

(3) If the mailing address is different from the street address, the mailing address of the residence or business of each trustee of the trust.

2. The certificate must be:

(a) Signed:

(1) In the case of a natural person, by him;

(2) In the case of an artificial person ~~[required to make annual filings with the Secretary of State to retain its good standing, by a person required to sign the annual filing;]~~ ***, by an officer, director, manager, general partner, trustee or other natural person having the authority to bind the artificial person to a contract;***

(3) In the case of a general partnership, by each of the partners who is a natural person ~~[,]~~ and **,** if one or more of the partners is an artificial person described in subparagraph (2), by ~~[an officer of the corporation or a person required to sign the annual filing;]~~ ***the person described in subparagraph (2);*** or

(4) In the case of a trust, by each of the trustees; and

(b) Notarized, unless the board of county commissioners of the county adopts an ordinance providing that the certificate may be filed without being notarized.

3. No county clerk may refuse to accept for filing a certificate filed by a foreign artificial person or foreign artificial persons because the foreign artificial person or foreign artificial persons have not qualified to do business in this State under title 7 of NRS.

4. As used in this section:

(a) "Artificial person" means any organization organized under the law of the United States, any foreign country, or a state, province, territory, possession, commonwealth or dependency of the United States or any foreign country, and as to which the government, state, province, territory, possession, commonwealth or dependency must maintain a record showing the organization to have been organized.

(b) "Foreign artificial person" means an artificial person that is not organized under the laws of this State.

(c) "Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 81. NRS 604A.710 is hereby amended to read as follows:

604A.710 1. For the purpose of discovering violations of this chapter or securing information lawfully required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

(a) Any licensee;

(b) Any other person engaged in the business of making loans or participating in such business as principal, agent, broker or otherwise;

(c) Any registered agent who represents a licensee or any other person engaged in the business of making loans; and

(d) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purpose of examination, the Commissioner or his authorized representatives shall have and be given free access to the offices and places of business, and the files, safes and vaults of such persons.

3. The investigation of a registered agent pursuant to subsection 1, including, without limitation, any books, accounts, papers and records used therein, must be kept confidential except to the extent necessary to enforce any provision of this chapter.

4. For the purposes of this section, any person who advertises for, solicits or holds himself out as willing to make any deferred deposit loan, high-interest loan or title loan is presumed to be engaged in the business of making loans.

5. This section does not entitle the Commissioner or his authorized representatives to investigate the business or examine the books, accounts, papers and records of any attorney who is not a person described in paragraph (a), (b) or (d) of subsection 1, other than examination of those books, accounts, papers and records maintained by such attorney in his capacity as a registered agent, and then only to the extent such books, accounts, papers and records are not subject to any privilege in NRS 49.035 to 49.115, inclusive.

Sec. 82. NRS 675.380 is hereby amended to read as follows:

675.380 1. For the purpose of discovering violations of this chapter or of securing information lawfully required under this chapter, the Commissioner or his duly authorized representatives may at any time investigate the business and examine the books, accounts, papers and records used therein of:

(a) Any licensee;

(b) Any other person engaged in the business described in NRS 675.060 or participating in such business as principal, agent, broker or otherwise;

(c) Any registered agent who represents a licensee or any other person engaged in the business described in NRS 675.060; and

(d) Any person who the Commissioner has reasonable cause to believe is violating or is about to violate any provision of this chapter, whether or not the person claims to be within the authority or beyond the scope of this chapter.

2. For the purpose of examination the Commissioner or his authorized representatives shall have and be given free access to the offices and places of business, files, safes and vaults of such persons.

3. The investigation of a registered agent pursuant to subsection 1, including, without limitation, any book, accounts, papers and records used therein must be kept confidential except to the extent necessary to enforce any provision of this chapter.

4. For the purposes of this section, any person who advertises for, solicits or holds himself out as willing to make loan transactions is presumed to be engaged in the business described in NRS 675.060.

5. This section does not entitle the Commissioner or his authorized representatives to investigate the business or examine the books, accounts, papers and records of any attorney who is not a person described in paragraph (a), (b) or (d) of subsection 1, other than examination of those books, accounts, papers and records maintained by such attorney in his capacity as a registered agent, and then only to the extent such books, accounts, papers and records are not subject to any privilege in NRS 49.035 to 49.115, inclusive.

Sec. 83. (Deleted by amendment.)

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 355.

Bill read second time.

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

Amendment No. 786.

SUMMARY—Enacts the Uniform Debt-Management Services Act. (BDR ~~[52]~~ **56**-1279)

AN ACT relating to trade practices; enacting the Uniform Debt-Management Services Act; repealing the existing provisions governing the regulation of debt adjusters; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the regulation of debt adjusters by the Commissioner of Financial Institutions. (Chapter 676 of NRS) This bill repeals those provisions and enacts the Uniform Debt-Management Services Act, which provides for the regulation of providers of debt-management services by the Commissioner of ~~[Consumer Affairs.]~~ **Financial Institutions.**

Sections 26-38 of this bill provide for the registration of providers of debt-management services ~~[.]~~ **, which includes providers of credit counseling, providers that develop and implement debt-management plans and providers of debt settlement services.** No provider may enter into an agreement with any debtor in this State without registering as a consumer debt-management service in this State. Registration requires submission of

detailed information concerning the service, including, without limitation, its financial condition, the identity of principals, locations at which service will be offered, the form for agreements with debtors and business history in other jurisdictions. To register, a service must have an effective insurance policy against fraud, dishonesty, theft and the like in an amount not less than $250,000. It must also provide a security bond of a minimum of $50,000 which has the Commissioner as a beneficiary. If a registration substantially duplicates one in another state, the service may offer proof of registration in that other state to satisfy the registration requirements in this State. A satisfactory application will result in a certificate to do business from the Commissioner. A yearly renewal is required.

Sections 39-49 of this bill govern agreements between debtors and providers of debt-management services. To enter into agreements with debtors, there is a disclosure requirement respecting fees and services to be offered, and the risks and benefits of entering into such a contract. The service must offer counseling services from a certified counselor or certified debt specialist, and a plan must be created by the counselor or debt specialist for debt-management service to commence. The contents of the agreements and fees that may be charged are set forth in **sections 39-49**. There is a penalty-free 3-day right of rescission on the part of the debtor. In addition, the debtor may cancel the agreement after 30 days, but may be subject to fees if that occurs. The service may terminate the agreement if required payments are delinquent for at least 60 days. Any payments for creditors received from a debtor must be kept in a trust account that may not be used to hold any other funds of the service. There are strict accounting requirements and periodic reporting requirements respecting funds held.

Section 50 of this bill prohibits specific acts on the part of a service, including, without limitation, misappropriation of funds in trust, settlement for more than 50 percent of a debt with a creditor without a debtor's consent, gifts or premiums to enter into an agreement and representation that settlement has occurred without certification from a creditor. **Sections 51-59** of this bill provide that the enforcement of the provisions of this bill occurs at two levels, the Commissioner and the individual level. The Commissioner has investigative power, power to order an individual to cease and desist, power to assess a civil penalty up to $10,000 and power to bring a civil action. An individual may bring a civil action for compensatory damages, including, without limitation, triple damages, if a provider of debt-management services obtains payments not authorized by the provisions of this bill, and may seek punitive damages and attorney's fees. A service has a good faith mistake defense against liability. The statute of limitations pertaining to an action by the Commissioner is 4 years, and 2 years for a private right of action. **Section 58 of this bill provides that a violation of a provision of this bill constitutes a deceptive trade practice and that, for such a violation, an individual may recover pursuant to the provisions of**

this bill or the provisions of existing law relating to deceptive trade practices.

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

Section 1. Title ~~[52]~~ **56** of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 61, inclusive, of this act.

Sec. 2. ***This chapter may be cited as the Uniform Debt-Management Services Act.***

Sec. 3. ***As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 4 to 24, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***"Affiliate" means:***

1. With respect to an individual:

(a) The spouse of the individual;

(b) A sibling of the individual or the spouse of a sibling;

(c) An individual or the spouse of an individual who is a lineal ancestor or lineal descendant of the individual or the individual's spouse;

(d) An aunt, uncle, great aunt, great uncle, first cousin, niece, nephew, grandniece or grandnephew, whether related by the whole or the half blood or adoption, or the spouse of any of them; or

(e) Any other individual occupying the residence of the individual; and

2. With respect to an entity:

(a) A person that directly or indirectly controls, is controlled by or is under common control with the entity;

(b) An officer of, or an individual performing similar functions with respect to, the entity;

(c) A director of, or an individual performing similar functions with respect to, the entity;

(d) Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, a person that receives or received more than $25,000 from the entity in either the current year or the preceding year or a person that owns more than 10 percent of, or an individual who is employed by or is a director of, a person that receives or received more than $25,000 from the entity in either the current year or the preceding year;

(e) An officer or director of, or an individual performing similar functions with respect to, a person described in paragraph (a);

(f) The spouse of, or an individual occupying the residence of, an individual described in paragraphs (a) to (e), inclusive; or

(g) An individual who has the relationship specified in paragraph (d) of subsection 1 to an individual or the spouse of an individual described in paragraphs (a) to (e), inclusive.

Sec. 5. ***"Agreement" means an agreement between a provider and an individual for the performance of debt-management services.***

Sec. 6. ***"Bank" means a financial institution, including, without limitation, a commercial bank, savings bank, savings and loan association, credit union and trust company, engaged in the business of banking, chartered under federal or state law and regulated by a federal or state banking regulatory authority.***

Sec. 7. ***"Business address" means the physical location of a business, including, without limitation, the name and number of a street.***

Sec. 8. ***"Certified counselor" means an individual certified by a training program or certifying organization, approved by the Commissioner, that authenticates the competence of individuals providing education and assistance to other individuals in connection with debt-management services in which an agreement contemplates that creditors will reduce finance charges or fees for late payment, default or delinquency.***

Sec. 9. ***"Certified debt specialist" means an individual certified by a training program or certifying organization, approved by the Commissioner, that authenticates the competence of individuals providing education and assistance to other individuals in connection with*** ~~*[debt-management services in which an agreement contemplates that creditors will settle debts for less than the full principal amount of the debt owed.]*~~ ***debt settlement services.***

Sec. 10. ***"Commissioner" means the Commissioner of*** ~~*[Consumer Affairs.]*~~ ***Financial Institutions.***

Sec. 11. ***"Concessions" means assent to repayment of a debt on terms more favorable to an individual than the terms of the contract between the individual and a creditor.***

Sec. 11.5. "Credit counseling" means providing education and assistance to an individual concerning debts owed by the individual which may include, without limitation, the development and implementation of a debt-management plan.

Sec. 12. ***"Day" means calendar day.***

Sec. 12.5. "Debt-management plan" means a plan which contemplates that:

1. Regular, periodic payments will be made to a provider by or on behalf of an individual to whom debt-management services are being provided; and

2. The individual's creditors will reduce financing charges or fees for late payment, default or delinquency.

➥ The term does not include a plan which contemplates that creditors of the individual will settle debts for less than the principal amount of the debt.

Sec. 13. ***"Debt-management services" means services as an intermediary between an individual and one or more creditors of the***

individual for the purpose of obtaining concessions ~~[, but]~~ and includes credit counseling, the development and implementation of debt-management plans and debt settlement services. The term does not include:

1. Legal services provided in an attorney-client relationship by an attorney licensed or otherwise authorized to practice law in this State;

2. Accounting services provided in an accountant-client relationship by a certified public accountant licensed to provide accounting services in this State; or

3. Financial-planning services provided in a financial planner-client relationship by a member of a financial-planning profession whose members the Commissioner, by regulation, determines are:

(a) Licensed by this State;

(b) Subject to a disciplinary mechanism;

(c) Subject to a code of professional responsibility; and

(d) Subject to a continuing education requirement.

Sec. 13.5. "Debt settlement services" means debt-management services which contemplate that:

1. Regular, periodic payments will be made by or on behalf of the individual to whom the services are being provided;

2. The individual will accumulate such payments in a bank account which is insured by the Federal Deposit Insurance Corporation, owned by the individual and not controlled by the provider; and

3. The individual will use the accumulated amount of the payments made pursuant to subsection 1 to make payments to:

(a) The provider for any fees charged by the provider pursuant to section 45 of this act; and

(b) Creditors in order to settle the debts of the individual for less than the principal amount of the debt.

Sec. 14. *"Entity" means a person other than an individual.*

Sec. 15. *"Good faith" means honesty in fact and the observance of reasonable standards of fair dealing.*

Sec. 16. *"Person" means an individual, corporation, business trust, estate, trust, partnership, limited-liability company, association, joint venture or any other legal or commercial entity. The term does not include a public corporation, government or governmental subdivision, agency or instrumentality.*

Sec. 17. *"Plan" means a program or strategy in which a provider furnishes debt-management services to an individual and which includes a schedule of payments to be made by or on behalf of the individual and used to pay debts owed by the individual.*

Sec. 18. *"Principal amount of the debt" means the amount of a debt at the time of an agreement.*

Sec. 19. *"Provider" means a person that provides, offers to provide or agrees to provide debt-management services directly or through others.*

Sec. 20. ***"Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.***

Sec. 21. ***"Settlement fee" means a charge imposed on or paid by an individual in connection with a creditor's assent to accept in full satisfaction of a debt an amount less than the principal amount of the debt.***

Sec. 22. ***"Sign" means, with present intent to authenticate or adopt a record:***

1. To execute or adopt a tangible symbol; or

2. To attach to or logically associate with the record an electronic sound, symbol or process.

Sec. 23. ***"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.***

Sec. 24. ***"Trust account" means an account held by a provider that is:***

1. Established in an insured bank;

2. Separate from other accounts of the provider or its designee;

3. Designated as a trust account or other account designated to indicate that the money in the account is not the money of the provider or its designee; and

4. Used to hold money of one or more individuals for disbursement to creditors of the individuals.

Sec. 25. ***1. This chapter does not apply to an agreement with an individual who the provider has no reason to know resides in this State at the time of the agreement.***

2. This chapter does not apply to a provider to the extent that the provider:

(a) Provides or agrees to provide debt-management, educational or counseling services to an individual who the provider has no reason to know resides in this State at the time the provider agrees to provide the services; or

(b) Receives no compensation for debt-management services from or on behalf of the individuals to whom it provides the services or from their creditors.

3. This chapter does not apply to the following persons or their employees when the person or the employee is engaged in the regular course of the person's business or profession:

(a) A judicial officer, a person acting under an order of a court or an administrative agency or an assignee for the benefit of creditors;

(b) A bank;

(c) An affiliate, as defined in paragraph (a) of subsection 2 of section 4 of this act, of a bank if the affiliate is regulated by a federal or state banking regulatory authority; or

(d) A title insurer, escrow company or other person that provides bill-paying services if the provision of debt-management services is incidental to the bill-paying services.

Sec. 26. ***1. Except as otherwise provided in subsection 2, a provider may not provide debt-management services to an individual who it reasonably should know resides in this State at the time it agrees to provide the services, unless the provider is registered under this chapter.***

2. If a provider is registered under this chapter, subsection 1 does not apply to an employee or agent of the provider.

3. The Commissioner shall maintain and publicize a list of the names of all registered providers.

Sec. 27. ***1. An application for registration as a provider must be in a form prescribed by the Commissioner.***

2. Subject to adjustment of dollar amounts pursuant to subsection 6 of section 54 of this act, an application for registration as a provider must be accompanied by:

(a) The fee established by the Commissioner;

(b) The bond required by section 35 of this act;

(c) ~~[Identification]~~ If the debt-management services to be provided by the provider will include the development and implementation of debt-management plans, identification of all trust accounts required by section 44 of this act and an irrevocable consent authorizing the Commissioner to review and examine the trust accounts;

(d) Evidence of insurance in the amount of $250,000:

(1) Against the risks of dishonesty, fraud, theft and other misconduct on the part of the applicant or a director, employee or agent of the applicant;

(2) Issued by an insurance company authorized to do business in this State and rated at least A or equivalent by a nationally recognized rating organization approved by the Commissioner;

(3) With a deductible not exceeding $5,000;

(4) Payable for the benefit of the applicant, this State and individuals who are residents of this State, as their interests may appear; and

(5) Not subject to cancellation by the applicant or the insurer until 60 days after written notice has been given to the Commissioner;

(e) Proof of compliance with NRS 360.760 to 360.798, inclusive; and

(f) If the applicant is exempt from taxation, evidence of nonprofit and tax-exempt status applicable to the applicant under the Internal Revenue Code, 26 U.S.C. 501.

Sec. 28. ***An application for registration must be signed under oath and include:***

1. The applicant's name, principal business address and telephone number and all other business addresses in this State, electronic mail addresses and Internet website addresses;

2. All names under which the applicant conducts business;

3. The address of each location in this State at which the applicant will provide debt-management services or a statement that the applicant will have no such location;

4. The name and home address of each officer and director of the applicant and each person that owns at least 10 percent of the applicant;

5. Identification of every jurisdiction in which, during the 5 years immediately preceding the application:

(a) The applicant or any of its officers or directors have been licensed or registered to provide debt-management services; or

(b) Individuals have resided when they received debt-management services from the applicant;

6. A statement describing, to the extent it is known or should be known by the applicant, any material civil or criminal judgment or litigation and any material administrative or enforcement action by a governmental agency in any jurisdiction against the applicant, any of its officers, directors, owners or agents or any person who is authorized to have access to the trust account required by section 44 of this act;

7. The applicant's financial statements ***[, audited by an accountant licensed to conduct audits,]*** ***for each of the 2 years immediately preceding the application or, if it has not been in operation for the 2 years preceding the application, for the period of its existence*** ***[;]*** ***, which must be audited by an accountant licensed to conduct audits if the applicant is claiming nonprofit or tax-exempt status or if the applicant's business practices involve holding, accessing or directing the funds of an individual;***

8. Evidence of accreditation by an independent accrediting organization approved by the Commissioner;

9. Evidence that, within 12 months after initial employment, each of the applicant's counselors becomes certified as a certified counselor or certified debt specialist;

10. A description of the three most commonly used educational programs that the applicant provides or intends to provide to individuals who reside in this State and a copy of any materials used or to be used in those programs;

11. A description of the applicant's financial analysis and initial budget plan, including, without limitation, any form or electronic model used to evaluate the financial condition of individuals;

12. A copy of each form of agreement that the applicant will use with individuals who reside in this State;

13. The schedule of fees and charges that the applicant will use with individuals who reside in this State;

14. A complete set of the fingerprints of every officer of the applicant and every employee or agent of the applicant who is authorized to have access to the trust account required by section 44 of this act and written permission from each individual submitting a complete set of fingerprints authorizing the Commissioner 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;

15. The names and addresses of all employers of each director during the 10 years immediately preceding the application;

16. A description of any ownership interest of at least 10 percent by a director, owner or employee of the applicant in:

(a) Any affiliate of the applicant; or

(b) Any entity that provides products or services to the applicant or any individual relating to the applicant's debt-management services;

17. ~~[A]~~ If the applicant is exempt from taxation, a statement of the amount of compensation of the applicant's five most highly compensated employees for each of the 3 years immediately preceding the application or, if it has not been in operation for the 3 years preceding the application, for the period of its existence;

18. The identity of each director who is an affiliate, as defined in subsection 1 of section 4 of this act or paragraph (a), (b), (d), (e), (f) or (g) of subsection 2 of section 4 of this act, of the applicant; and

19. Any other information that the Commissioner reasonably requires to perform the Commissioner's duties under section 31 of this act.

Sec. 29. ***An applicant or registered provider shall notify the Commissioner within 10 days after a change in the information specified in paragraph (d) or (f) of subsection 2 of section 27 of this act or subsection 1, 3, 6, 12 or 13 of section 28 of this act.***

Sec. 30. ***1. Except as otherwise provided in subsection 2, the Commissioner shall make the information in an application for registration as a provider available to the public.***

2. Except as otherwise provided in NRS 239.0115, the information required by subsections 7, 14 and 17 of section 28 of this act and the addresses required by subsection 4 of section 28 of this act are confidential ~~[, not subject to subpoena or discovery,]~~ and not subject to inspection by the general public.

Sec. 31. ***1. Except as otherwise provided in subsections 3 and 4, the Commissioner shall issue a certificate of registration as a provider to a person that complies with sections 27 and 28 of this act.***

2. If an applicant has otherwise complied with sections 27 and 28 of this act, including a timely effort to obtain the information required by subsection 14 of section 28 of this act, but the information has not been received, the Commissioner may issue a temporary certificate of registration. The temporary certificate expires not later than 180 days after issuance.

3. The Commissioner may deny registration if:

(a) The application contains information that is materially erroneous or incomplete;

(b) An officer, director or owner of the applicant has been convicted of a crime, or suffered a civil judgment, involving dishonesty or the violation of state or federal securities laws;

(c) The applicant or any of its officers, directors or owners have defaulted in the payment of money collected for others; or

(d) The Commissioner finds that the financial responsibility, experience, character or general fitness of the applicant or its owners, directors, employees or agents does not warrant belief that the business will be operated in compliance with this chapter.

4. The Commissioner shall deny registration if, with respect to an applicant that is organized as a nonprofit entity or has obtained tax-exempt status under the Internal Revenue Code, 26 U.S.C. 501, the applicant's board of directors is not independent of the applicant's employees and agents.

5. Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, a board of directors is not independent for purposes of subsection 4 if more than one-fourth of its members:

(a) Are affiliates of the applicant, as defined in subsection 1 of section 4 of this act or paragraph (a), (b), (d), (e), (f) or (g) of subsection 2 of section 4 of this act; or

(b) After the date 10 years before first becoming a director of the applicant, were employed by or directors of a person that received from the applicant more than $25,000 in either the current year or the preceding year.

Sec. 32. ***1. The Commissioner shall approve or deny an initial registration as a provider within 120 days after an application is filed. In connection with a request pursuant to subsection 19 of section 28 of this act for additional information, the Commissioner may extend the 120-day period for not more than 60 days. Within 7 days after denying an application, the Commissioner, in a record, shall inform the applicant of the reasons for the denial.***

2. If the Commissioner denies an application for registration as a provider or does not act on an application within the time prescribed in subsection 1, the applicant may appeal and request a hearing pursuant to NRS 233B.121 to 233B.150, inclusive.

3. Subject to subsection 4 of section 33 of this act and section 56 of this act, a registration as a provider is valid for 1 year.

Sec. 33. ***1. A provider must obtain a renewal of its registration annually.***

2. An application for renewal of registration as a provider must be in a form prescribed by the Commissioner, signed under oath, and:

(a) Be filed not fewer than 30 days and not more than 60 days before the registration expires;

(b) Be accompanied by the fee established by the Commissioner and the bond required by section 35 of this act;

(c) Contain the matter required for initial registration as a provider by subsections 8 and 9 of section 28 of this act and a financial statement, audited by an accountant licensed to conduct audits, for the applicant's fiscal year immediately preceding the application;

(d) Disclose any changes in the information contained in the applicant's application for registration or its immediately previous application for renewal, as applicable, and if an application is otherwise complete and the applicant has made a timely effort to obtain the information required by subsection 14 of section 28 of this act but the information has not been received, the Commissioner may issue a temporary renewal of registration which expires not later than 180 days after issuance;

(e) Supply evidence of insurance in an amount equal to the larger of $250,000 or the highest daily balance in the trust account required by section 44 of this act during the 6-month period immediately preceding the application:

(1) Against risks of dishonesty, fraud, theft and other misconduct on the part of the applicant or a director, employee or agent of the applicant;

(2) Issued by an insurance company authorized to do business in this State and rated at least A or equivalent by a nationally recognized rating organization approved by the Commissioner;

(3) With a deductible not exceeding $5,000;

(4) Payable for the benefit of the applicant, this State and the individuals who are residents of this State, as their interests may appear; and

(5) Not subject to cancellation by the applicant or the insurer until 60 days after written notice has been given to the Commissioner;

(f) ~~*[Disclose the]*~~ ***If the applicant has developed and implemented debt-management plans, disclose:***

(1) The total amount of money received by the applicant pursuant to plans during the preceding 12 months from or on behalf of individuals who reside in this State and the total amount of money distributed to creditors of those individuals during that period;

~~*[(g) Disclose, to]*~~ ***and***

(2) To the best of the applicant's knowledge, the gross amount of money accumulated during the preceding 12 months pursuant to plans by or on behalf of individuals who reside in this State and with whom the applicant has agreements; and

~~*[(h)]*~~ ***(g) Provide any other information that the Commissioner reasonably requires to perform the Commissioner's duties under this section.***

3. Except as otherwise provided in this subsection, the Commissioner shall make the information in an application for renewal of registration as a provider available to the public. Except as otherwise provided in NRS 239.0115, the information required by subsections 7, 14 and 17 of section 28 of this act and the addresses required by subsection 4 of section

28 of this act are confidential [, not subject to subpoena or discovery,] and not subject to inspection by the general public.

4. If a registered provider files a timely and complete application for renewal of registration, the registration remains effective until the Commissioner, in a record, notifies the applicant of a denial and states the reasons for the denial.

5. If the Commissioner denies an application for renewal of registration as a provider, the applicant, within 30 days after receiving notice of the denial, may appeal and request a hearing pursuant to NRS 233B.121 to 233B.150, inclusive. Subject to section 56 of this act, while the appeal is pending, the applicant must continue to provide debt-management services to individuals with whom it has agreements. If the denial is affirmed, subject to the Commissioner's order and section 56 of this act, the applicant must continue to provide debt-management services to individuals with whom it has agreements until, with the approval of the Commissioner, it transfers the agreements to another registered provider or returns to the individuals all unexpended money that is under the applicant's control.

Sec. 34. ***If a provider holds a license or certificate of registration in another state authorizing it to provide debt-management services, the provider may submit a copy of that license or certificate and the application for it instead of an application in the form prescribed by subsection 1 of section 27 of this act, section 28 of this act or subsection 2 of section 33 of this act. The Commissioner shall accept the application and the license or certificate from the other state as an application for registration as a provider or for renewal of registration as a provider, as appropriate, in this State if:***

1. The application in the other state contains information substantially similar to or more comprehensive than that required in an application submitted in this State;

2. The applicant provides the information required by subsections 1, 3, 10, 12 and 13 of section 28 of this act; and

3. The applicant, under oath, certifies that the information contained in the application is current or, to the extent it is not current, supplements the application to make the information current.

Sec. 35. ***1. Except as otherwise provided in section 36 of this act, a provider that is required to be registered under this chapter shall file a surety bond with the Commissioner, which must:***

(a) Be continuously in effect during the period of registration and for 2 years after the provider ceases providing debt-management services to individuals in this State; and

(b) Run to this State for the benefit of this State and of individuals who reside in this State when they agree to receive debt-management services from the provider, as their interests may appear.

2. Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, a surety bond filed pursuant to subsection 1 must:

(a) Be in the amount of $50,000 or other larger ~~[or smaller]~~ amount that the Commissioner determines is warranted by the financial condition and business experience of the provider, the history of the provider in performing debt-management services, the risk to individuals and any other factor the Commissioner considers appropriate;

(b) Be issued by a bonding, surety or insurance company authorized to do business in this State and rated at least A by a nationally recognized rating organization; and

(c) Have payment conditioned upon noncompliance of the provider or its agent with this chapter.

3. If the principal amount of a surety bond is reduced by payment of a claim or a judgment, the provider shall immediately notify the Commissioner and, within 30 days after notice by the Commissioner, file a new or additional surety bond in an amount set by the Commissioner. The amount of the new or additional bond must be at least the amount of the bond immediately before payment of the claim or judgment. If for any reason a surety terminates a bond, the provider shall immediately file a new surety bond in the amount of $50,000 or other larger amount determined pursuant to subsection 2.

4. The Commissioner or an individual may obtain satisfaction out of the surety bond procured pursuant to this section if:

(a) The Commissioner assesses expenses under paragraph (a) of subsection 2 of section 54 of this act, issues a final order under paragraph (b) of subsection 1 of section 55 of this act or recovers a final judgment under paragraph (d) or (e) of subsection 1 of section 55 of this act or subsection 4 of section 55 of this act; or

(b) An individual recovers a final judgment pursuant to subsection 1 or 2 of section 57 of this act or paragraph (a), (b) or (d) of subsection 3 of section 57 of this act.

5. If claims against a surety bond exceed or are reasonably expected to exceed the amount of the bond, the Commissioner, on the initiative of the Commissioner or on petition of the surety, shall, unless the proceeds are adequate to pay all costs, judgments and claims, distribute the proceeds in the following order:

(a) To satisfaction of a final order or judgment under paragraph (b), (d) or (e) of subsection 1 of section 55 of this act or subsection 4 of section 55 of this act;

(b) To final judgments recovered by individuals pursuant to subsection 1 or 2 of section 57 of this act or paragraph (a), (b) or (d) of subsection 3 of section 57 of this act, pro rata;

(c) To claims of individuals established to the satisfaction of the Commissioner, pro rata; and

(d) If a final order or judgment is issued under subsection 1 of section 55 of this act, to the expenses charged pursuant to paragraph (a) of subsection 2 of section 54 of this act.

Sec. 36. ***1. Instead of the surety bond required by section 35 of this act, a provider may deliver to the Commissioner, in the amount required by subsection 2 of section 35 of this act, and, except as otherwise provided in subparagraph (1) of paragraph (b), payable or available to this State and to individuals who reside in this State when they agree to receive debt-management services from the provider, as their interests may appear, if the provider or its agent does not comply with this chapter:***

(a) A certificate of insurance issued by an insurance company authorized to do business in this State and rated at least A or equivalent by a nationally recognized rating organization, approved by the Commissioner and with no deductible, or, if the provider supplies a bond in the amount of $5,000, a deductible not exceeding $5,000; or

(b) With the approval of the Commissioner:

(1) An irrevocable letter of credit, issued or confirmed by a bank approved by the Commissioner, payable upon presentation of a certificate by the Commissioner stating that the provider or its agent has not complied with this chapter; or

(2) Bonds or other obligations of the United States or guaranteed by the United States or bonds or other obligations of this State or a political subdivision of this State, to be deposited and maintained with a bank approved by the Commissioner for this purpose.

2. If a provider furnishes a substitute pursuant to subsection 1, the provisions of subsections 1, 3, 4 and 5 of section 35 of this act apply to the substitute.

Sec. 37. ***1. A provider shall act in good faith in all matters under this chapter.***

2. A provider who holds funds on behalf of an individual to whom it provides debt-management services shall act as a fiduciary with respect to those funds.

Sec. 38. ***A provider that is required to be registered under this chapter shall maintain a toll-free communication system, staffed at a level that reasonably permits an individual to speak to a certified counselor, certified debt specialist or customer service representative, as appropriate, during ordinary business hours.***

Sec. 39. ***1. Before providing debt-management services, a registered provider shall give the individual an itemized list of goods and services and the charges for each. The list must be clear and conspicuous, be in a record the individual may keep whether or not the individual assents to an agreement and describe the goods and services the provider offers:***

(a) Free of additional charge if the individual enters into an agreement;

(b) For a charge if the individual does not enter into an agreement; and

(c) For a charge if the individual enters into an agreement, using the following terminology, as applicable, and format:

Set-up fee _____
dollar amount of fee

Monthly service fee _____
dollar amount of fee or method of determining amount

Settlement fee _____
dollar amount of fee or method of determining amount

Goods and services in addition to those provided in connection with a plan:

_____	_____
(item)	*dollar amount or method of determining amount*
_____	_____
(item)	*dollar amount or method of determining amount*

2. A provider may not furnish debt-management services unless the provider, through the services of a certified counselor or certified debt specialist:

(a) Provides the individual with reasonable education about the management of personal finance;

(b) Has prepared a financial analysis; and

(c) If the provider will develop and implement a debt-management plan and the individual is to make regular, periodic payments:

(1) Has prepared a plan for the individual;

(2) Has made a determination, based on the provider's analysis of the information provided by the individual and otherwise available to the provider, that the plan is suitable for the individual and the individual will be able to meet the payment obligations under the plan; and

(3) Believes that each creditor of the individual listed as a participating creditor in the plan will accept payment of the individual's debts as provided in the plan.

3. Before an individual assents to an agreement, a provider shall:

(a) Provide the individual with a copy of the analysis and plan required by subsection 2 in a record which identifies the provider and which the individual may keep whether or not the individual assents to the agreement;

(b) Inform the individual of the availability, at the individual's option, of assistance by a toll-free communication system or in person to discuss the financial analysis and plan required by subsection 2; and

(c) ~~[With]~~ If the agreement contemplates that the provider will develop and implement a debt-management plan and with respect to all creditors identified by the individual or otherwise known by the provider to be creditors of the individual, provide the individual with a list of:

(1) Creditors that the provider expects to participate in the plan and grant concessions;

(2) Creditors that the provider expects to participate in the plan but not grant concessions;

(3) Creditors that the provider expects not to participate in the plan; and

(4) All other creditors.

4. Before an individual assents to an agreement, the provider shall inform the individual in a separate record which the individual may keep:

(a) Of the name and business address of the provider;

(b) That plans are not suitable for all individuals and the individual may ask the provider about other ways, including, without limitation, bankruptcy, to deal with indebtedness;

(c) That establishment of a plan may adversely affect the individual's credit rating or credit scores;

(d) That nonpayment of debt may lead creditors to increase finance and other charges or undertake collection activity, including, without limitation, litigation;

(e) Unless it is not true, that the provider may receive compensation from the creditors of the individual; and

(f) That, unless the individual is insolvent, if a creditor settles for less than the full amount of the debt, the plan may result in the creation of taxable income to the individual, even though the individual does not receive any money.

5. If a provider may receive payments from an individual's creditors and the plan contemplates that the ~~*[individual's creditors will reduce finance charges or fees for late payment, default or delinquency,]*~~ ***provider will develop and implement a debt-management plan, the provider may comply with subsection 4 by providing the following disclosure, surrounded by black lines:***

IMPORTANT INFORMATION FOR YOU TO CONSIDER

(1) Debt-management plans are not right for all individuals, and you may ask us to provide information about other ways, including bankruptcy, to deal with your debts.

(2) Using a debt-management plan may make it harder for you to obtain credit.

(3) We may receive compensation for our services from your creditors.

_____

Name and business address of provider

6. If a provider will not receive payments from an individual's creditors and the plan contemplates that the ~~*[individual's creditors will reduce finance charges or fees for late payment, default or delinquency,]*~~ ***provider will develop and implement a debt-management plan, a provider may***

comply with subsection 4 by providing the following disclosure, surrounded by black lines:

IMPORTANT INFORMATION FOR YOU TO CONSIDER

(1) Debt-management plans are not right for all individuals, and you may ask us to provide information about other ways, including bankruptcy, to deal with your debts.

(2) Using a debt-management plan may make it harder for you to obtain credit.

_____

Name and business address of provider

7. If an agreement contemplates that ~~[creditors will settle debts for less than the full principal amount of the debt owed,]~~ a provider will provide debt settlement services, the provider may comply with subsection 4 by providing the following disclosure, surrounded by black lines:

IMPORTANT INFORMATION FOR YOU TO CONSIDER

(1) Our program is not right for all individuals, and you may ask us to provide information about bankruptcy and other ways to deal with your debts.

(2) Nonpayment of your debts under our program may:

Hurt your credit rating or credit scores;

Lead your creditors to increase finance and other charges; and

Lead your creditors to undertake activity, including lawsuits, to collect the debts.

(3) Reduction of debt under our program may result in taxable income to you, even though you will not actually receive any money.

_____

Name and business address of provider

Sec. 40. ***1. A provider may satisfy the requirements of section 39, 41 or 49 of this act by means of the Internet or other electronic means if the provider obtains a consumer's consent in the manner provided by section 101(c)(1) of the federal act.***

2. The disclosures and materials required by section 39, 41 or 49 of this act must be presented in a form that is capable of being accurately reproduced for later reference.

3. With respect to disclosure by means of an Internet website, the disclosure of the information required by subsection 4 of section 39 of this act must appear on one or more screens that:

(a) Contain no other information; and

(b) The individual must see before proceeding to assent to formation of an agreement.

4. At the time of providing the materials and agreement required by subsections 3 and 4 of section 39 of this act and sections 41 and 49 of this act, a provider shall inform the individual that upon electronic, telephonic

or written request, it will send the individual a written copy of the materials, and shall comply with a request as provided in subsection 5.

5. If a provider is requested, before the expiration of 90 days after an agreement is completed or terminated, to send a written copy of the materials required by subsections 3 and 4 of section 39 of this act or section 41 or 49 of this act, the provider shall send them at no charge within 3 business days after the request, but the provider need not comply with a request more than once per calendar month or if it reasonably believes the request is made for purposes of harassment. If a request is made more than 90 days after an agreement is completed or terminated, the provider shall send within a reasonable time a written copy of the materials requested.

6. A provider that maintains an Internet website shall disclose on the home page of its website or on a page that is clearly and conspicuously connected to the home page by a link that clearly reveals its contents:

(a) Its name and all names under which it does business;

(b) Its principal business address, telephone number and electronic mail address, if any; and

(c) The names of its principal officers.

7. Subject to subsection 8, if a consumer who has consented to electronic communication in the manner provided by section 101 of the federal act withdraws consent as provided in the federal act, a provider may terminate its agreement with the consumer.

8. If a provider wishes to terminate an agreement with a consumer pursuant to subsection 7, it shall notify the consumer that it will terminate the agreement unless the consumer, within 30 days after receiving the notification, consents to electronic communication in the manner provided in section 101(c) of the federal act. If the consumer consents, the provider may terminate the agreement only as permitted by subparagraph (6) of paragraph (f) of subsection 1 of section 41 of this act.

9. As used in this section:

(a) "Consumer" means an individual who seeks or obtains goods or services that are used primarily for personal, family or household purposes.

(b) "Federal act" means the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq.

Sec. 41. ***1. An agreement must:***

(a) Be in a record;

(b) Be dated and signed by the provider and the individual;

(c) Include the name of the individual and the address where the individual resides;

(d) Include the name, business address and telephone number of the provider;

(e) Be ~~[delivered]~~ provided to the individual ~~[immediately upon formation of]~~ before the individual assents to the agreement; and

(f) Disclose:

(1) The services to be provided ~~[,]~~ , including, without limitation, whether the provider will provide credit counseling, develop and implement a debt-management plan, provide debt settlement services or provide any combination of these services;

(2) The amount, or method of determining the amount, of all fees, individually itemized, to be paid by the individual;

(3) ~~[The]~~ If the agreement contemplates that the provider will develop and implement a debt-management plan or provide debt settlement services, the schedule of payments to be made by or on behalf of the individual, including the amount of each payment, the date on which each payment is due and an estimate of the date of the final payment;

(4) If the agreement contemplates that the provider will develop and implement a debt-management plan and a plan provides for regular periodic payments to creditors:

(I) Each creditor of the individual to which payment will be made, the amount owed to each creditor and any concessions the provider reasonably believes each creditor will offer;

(II) The schedule of expected payments to each creditor, including the amount of each payment and the date on which it will be made; and

(III) Each creditor that the provider believes will not participate in the plan and to which the provider will not direct payment;

(5) ~~[How]~~ If the agreement contemplates that the provider will develop and implement a debt-management plan or provide debt settlement services, how the provider will comply with its obligations under subsection 1 of section 49 of this act;

(6) That the provider may terminate the agreement for good cause, upon return of unexpended money of the individual;

(7) That the individual may cancel the agreement as provided in section 42 of this act;

(8) That the individual may terminate a plan at any time without incurring any liability as provided in subparagraph (4) of paragraph (a) of subsection 4;

(9) That the individual may contact the Commissioner with any questions or complaints regarding the provider; and

~~[(9)]~~ (10) The address, telephone number and Internet address of the website of the Commissioner.

2. For purposes of paragraph (e) of subsection 1, delivery of an electronic record occurs when it is made available in a format in which the individual may retrieve, save and print it and the individual is notified that it is available.

3. If the Commissioner supplies the provider with any information required under subparagraph ~~[9]~~ 10 of paragraph (f) of subsection 1, the provider may comply with that requirement only by disclosing the information supplied by the Commissioner.

4. An agreement must provide that:

(a) The individual has a right to terminate the agreement at any time, without penalty or obligation ~~*[,]*~~ ***or the payment of any termination fee,*** *by giving the provider written or electronic notice, in which event:*

(1) The provider will refund all unexpended money that the provider or its agent has received from or on behalf of the individual for the reduction or satisfaction of the individual's debt;

(2) With respect to an agreement which contemplates that creditors will settle debts for less than the principal amount of the debt, the provider will refund 65 percent of any portion of the set-up fee that has not been credited against the settlement fee; ~~*[and]*~~

(3) All powers of attorney granted by the individual to the provider are revoked and ineffective; ***and***

(4) The provider will cease charging a monthly service fee, other than a monthly service fee which became due before the termination of the agreement.

(b) The individual authorizes any bank in which the provider or its agent has established a trust account to disclose to the Commissioner any financial records relating to the trust account; ~~*[and]*~~

(c) The provider will notify the individual within 5 days after learning of a creditor's final decision to reject or withdraw from a plan and that this notice will include:

(1) The identity of the creditor; and

(2) The right of the individual to modify or terminate the agreement ~~*[.]*~~ ***; and***

(d) The individual may terminate a plan at any time without incurring any liability.

5. ~~*[An]*~~ ***If an*** *agreement* ***contemplates that the provider will provide debt settlement services, the agreement*** *may confer on a provider a power of attorney to settle the individual's debt for not more than 50 percent of the outstanding amount of the debt.* ~~*[An]*~~ ***The*** *agreement may not confer a power of attorney to settle a debt for more than 50 percent of that amount, but may confer a power of attorney to negotiate with creditors of the individual on behalf of the individual.* ~~*[An]*~~ ***The*** *agreement must provide that the provider will obtain the assent of the individual after a creditor has assented to a settlement for more than 50 percent of the outstanding amount of the debt.*

6. An agreement may not:

(a) Provide for application of the law of any jurisdiction other than the United States and this State;

(b) Except as permitted by section 2 of the Federal Arbitration Act, 9 U.S.C. 2, or NRS 38.206 to 38.248, inclusive, contain a provision that modifies or limits otherwise available forums or procedural rights, including, without limitation, the right to trial by jury, that are generally available to the individual under law other than this chapter;

(c) Contain a provision that restricts the individual's remedies under this chapter or law other than this chapter; or

(d) Contain a provision that:

(1) Limits or releases the liability of any person for not performing the agreement or for violating this chapter; or

(2) Indemnifies any person for liability arising under the agreement or this chapter.

7. All rights and obligations specified in subsection 4 and section 42 of this act exist even if not provided in the agreement. A provision in an agreement which violates subsection 4, 5 or 6 is void.

Sec. 42. ***1. An individual may cancel an agreement before midnight of the third business day after the individual assents to it, unless the agreement does not comply with subsection 2 or section 41 or 50 of this act, in which event the individual may cancel the agreement within 30 days after the individual assents to it. To exercise the right to cancel, the individual must give notice in a record to the provider. Notice by mail is given when mailed.***

2. An agreement must be accompanied by a form that contains in boldface type, surrounded by bold black lines:

NOTICE OF RIGHT TO CANCEL

You may cancel this agreement, without any penalty or obligation, at any time before midnight of the third business day that begins the day after you agree to it by electronic communication or by signing it.

To cancel this agreement during this period, send an e-mail to _____ (e-mail address of provider) or mail or deliver a signed, dated copy of this notice, or any other written notice to _____ (name of provider) at _____ (address of provider) before midnight on _____ (date).

If you cancel this agreement within the 3-day period, we will refund all money you already have paid us.

You also may terminate this agreement at any later time, but we may not be required to refund fees you have paid us.

I cancel this agreement,

_____

Print your name

_____

Signature

_____

Date

3. If a personal financial emergency necessitates the disbursement of an individual's money to one or more of the individual's creditors before the expiration of 3 days after an agreement is signed, an individual may

waive the right to cancel. To waive the right, the individual must send or deliver a signed, dated statement in the individual's own words describing the circumstances that necessitate a waiver. The waiver must explicitly waive the right to cancel. A waiver by means of a standard form record is void.

Sec. 43. ***Unless the Commissioner, by regulation, provides otherwise, the disclosures and documents required by this chapter must be in English. If a provider communicates with an individual primarily in a language other than English, the provider must furnish a translation into the other language of the disclosures and documents required by this chapter.***

Sec. 44. ***1. All money paid to a provider by or on behalf of an individual for distribution to creditors pursuant to a plan is held in trust. Within 2 business days after receipt, the provider shall deposit the money in a trust account established for the benefit of individuals to whom the provider is furnishing debt-management services.***

2. Money held in trust by a provider is not property of the provider or its designee. The money is not available to creditors of the provider or its designee, except an individual from whom or on whose behalf the provider received money, to the extent that the money has not been disbursed to creditors of the individual.

3. A provider shall:

(a) Maintain separate records of account for each individual to whom the provider is furnishing debt-management services;

(b) Disburse money paid by or on behalf of the individual to creditors of the individual as disclosed in the agreement, except that the provider may delay payment to the extent that a payment by the individual is not final; and

(c) Promptly correct any payments which are not made or which are misdirected as a result of an error by the provider or other person in control of the trust account and reimburse the individual for any costs or fees imposed by a creditor as a result of the failure to pay or misdirection.

4. A provider may not commingle money in a trust account established for the benefit of individuals to whom the provider is furnishing debt-management services with money of other persons.

5. A trust account must at all times have a cash balance equal to the sum of the balances of each individual's account.

6. If a provider has established a trust account pursuant to subsection 1, the provider shall reconcile the trust account at least once a month. The reconciliation must compare the cash balance in the trust account with the sum of the balances in each individual's account. If the provider or its designee has more than one trust account, each trust account must be individually reconciled.

7. If a provider discovers, or has a reasonable suspicion of, embezzlement or other unlawful appropriation of money held in trust, the provider immediately shall notify the Commissioner by a method approved

by the Commissioner. Unless the Commissioner, by regulation, provides otherwise, within 5 days thereafter, the provider shall give notice to the Commissioner describing the remedial action taken or to be taken.

8. If an individual terminates an agreement or it becomes reasonably apparent to a provider that a plan has failed, the provider shall promptly refund to the individual all money paid by or on behalf of the individual which has not been paid to creditors, less fees that are payable to the provider under section 45 of this act.

9. Before relocating a trust account from one bank to another, a provider shall inform the Commissioner of the name, business address and telephone number of the new bank. As soon as practicable, the provider shall inform the Commissioner of the account number of the trust account at the new bank.

Sec. 45. ***1. A provider may not impose directly or indirectly a fee or other charge on an individual or receive money from or on behalf of an individual for debt-management services except as permitted by this section.***

2. A provider may not impose charges or receive payment for debt-management services until the provider and the individual have signed an agreement that complies with sections 41 and 50 of this act.

3. If an individual assents to an agreement, a provider may not impose a fee or other charge for educational or counseling services or the like, except as otherwise provided in this subsection and subsection ~~*[4]*~~ ***5 of section 50 of this act. The Commissioner may authorize a provider to charge a fee based on the nature and extent of the educational or counseling services furnished by the provider.***

4. Subject to adjustment of dollar amounts pursuant to subsection 6 of section 54 of this act, the following rules apply:

(a) If an individual assents to a plan which contemplates that creditors will reduce finance charges or fees for late payment, default or delinquency, the provider may charge, not including money provided by creditors to support educational or counseling services concerning personal finance provided by nonprofit entities:

(1) A fee not to exceed $50 for consultation, obtaining a credit report, setting up an account and the like; and

(2) A monthly service fee, not to exceed $10 times the number of accounts remaining in a plan at the time the fee is assessed, but not more than $50 in any month.

(b) If an individual assents to an agreement which contemplates that creditors will settle debts for less than the principal amount of the debt, a provider may charge:

(1) Subject to subsection 4 of section 41 of this act, a fee for consultation, obtaining a credit report, setting up an account and the like, in an amount not to exceed the lesser of $400 and 4 percent of the debt in the plan at the inception of the plan; and

(2) A monthly service fee, not to exceed $10 times the number of accounts remaining in a plan at the time the fee is assessed, but not more than $50 in any month.

(c) A provider may not impose or receive fees under both paragraphs (a) and (b).

(d) Except as otherwise provided in subsection ~~[4]~~ 5 of section 50 of this act, if an individual does not assent to an agreement, a provider may receive for educational or counseling services it provides to the individual a fee not to exceed $100 or, with the approval of the Commissioner, a larger fee. The Commissioner may approve a fee larger than $100 if the nature and extent of the educational or counseling services warrant the larger fee.

5. If, before the expiration of 90 days after the completion or termination of educational or counseling services, an individual assents to an agreement, the provider shall refund to the individual any fee paid pursuant to paragraph (d) of subsection 4.

6. Except as otherwise provided in subsections 3 and 4, if an agreement contemplates that creditors will settle an individual's debts for less than the principal amount of the debt, compensation for services in connection with settling debt may not exceed one of the following applicable settlement fee limits, the terms of which must be clearly disclosed in the agreement:

(a) With respect to agreements in which a flat settlement fee is charged based on the overall amount of included debt, the total aggregate amount of fees charged to an individual under this chapter, including fees charged under subparagraphs (1) and (2) of paragraph (b) of subsection 4, may not exceed 17 percent of the principal amount of debt included in the agreement at the agreement's inception. The flat settlement fee authorized under this paragraph must be assessed in equal monthly payments over not less than half of the length of the plan, as estimated at the plan's inception, unless:

(1) Voluntarily accelerated by the individual in a separate record; and

(2) Offers of settlement by creditors have been obtained on at least half of the outstanding debt included in the agreement.

(b) With respect to agreements in which fees are calculated as a percentage of the amount saved by an individual, a settlement fee may not exceed 30 percent of the excess of the outstanding amount of each debt over the amount actually paid to the creditor, as calculated at the time of settlement. Settlement fees authorized under this paragraph must become billable only as debts are settled, and the total aggregate amount of fees charged to an individual under this paragraph, including fees charged under subparagraphs (1) and (2) of paragraph (b) of subsection 4, may not exceed 20 percent of the principal amount of debt included in the agreement at the agreement's inception.

➥ A provider may not impose or receive fees under both paragraphs (a) and (b).

7. Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, if a payment to a provider by an individual under this chapter is dishonored, a provider may impose a reasonable charge on the individual, not to exceed the lesser of $25 and the amount permitted by law other than this chapter.

Sec. 46. ***A provider may not solicit a voluntary contribution from an individual or an affiliate of the individual for any service provided to the individual. A provider may accept voluntary contributions from an individual but, until 30 days after completion or termination of a plan, the aggregate amount of money received from or on behalf of the individual may not exceed the total amount the provider may charge the individual under section 45 of this act.***

Sec. 47. ***1. If a provider imposes a fee or other charge or receives money or other payments not authorized by section 45 or 46 of this act, the individual may void the agreement and recover as provided in section 57 of this act.***

2. If a provider is not registered as required by this chapter when an individual assents to an agreement, the agreement is voidable by the individual.

3. If an individual voids an agreement under subsection 2, the provider does not have a claim against the individual for breach of contract or for restitution.

Sec. 48. ***1. If an individual who has entered into an agreement fails for 60 days to make payments required by the agreement, a provider may terminate the agreement.***

2. If a provider or an individual terminates an agreement, the provider shall immediately return to the individual:

(a) Any money of the individual held in trust for the benefit of the individual; and

(b) ~~*[Sixty-five]*~~ ***If the agreement contemplated that the provider would provide debt settlement services, sixty-five percent of any portion of the set-up fee received pursuant to paragraph (b) of subsection 4 of section 45 of this act which has not been credited against settlement fees.***

Sec. 49. ***1.*** ~~*[A]*~~ ***If an agreement contemplates that a provider will develop and implement a debt-management plan or provide debt settlement services, the provider shall provide the accounting required by subsection 2:***

(a) Upon cancellation or termination of ~~*[an]*~~ ***the agreement; and***

(b) Before cancellation or termination of ~~*[any]*~~ ***the agreement:***

(1) At least once each month; and

(2) Within 5 business days after a request by an individual, but the provider need not comply with more than one request in any calendar month.

2. A provider, in a record, shall provide each individual for whom it has established a plan an accounting of the following information:

(a) The amount of money received from the individual since the last report;

(b) The amounts and dates of disbursement made on the individual's behalf, or by the individual upon the direction of the provider, since the last report to each creditor listed in the plan;

(c) The amounts deducted from the amount received from the individual;

(d) The amount held in reserve; and

(e) If, since the last report, a creditor has agreed to accept as payment in full an amount less than the principal amount of the debt owed by the individual:

(1) The total amount and terms of the settlement;

(2) The amount of the debt when the individual assented to the plan;

(3) The amount of the debt when the creditor agreed to the settlement; and

(4) The calculation of a settlement fee.

3. A provider shall maintain records for each individual for whom it provides debt-management services for 5 years after the final payment made by the individual and produce a copy of them to the individual within a reasonable time after a request for them. The provider may use electronic or other means of storage of the records.

Sec. 50. ***1. A provider may not, directly or indirectly:***

(a) Misappropriate or misapply money held in trust;

(b) Settle a debt on behalf of an individual for more than 50 percent of the outstanding amount of the debt owed a creditor, unless the individual assents to the settlement after the creditor has assented;

(c) Take a power of attorney that authorizes it to settle a debt, unless the power of attorney expressly limits the provider's authority to settle debts for not more than 50 percent of the outstanding amount of the debt owed a creditor;

(d) Exercise or attempt to exercise a power of attorney after an individual has terminated an agreement;

(e) Initiate a transfer from an individual's account at a bank or with another person unless the transfer is:

(1) A return of money to the individual; or

(2) Before termination of an agreement, properly authorized by the agreement and this chapter and for:

(I) Payment to one or more creditors pursuant to an agreement; or

(II) Payment of a fee;

(f) Offer a gift or bonus, premium, reward or other compensation to an individual for executing an agreement;

(g) Offer, pay or give a gift or bonus, premium, reward or other compensation to a person for referring a prospective customer, if the person making the referral has a financial interest in the outcome of debt-management services provided to the customer, unless neither the provider

nor the person making the referral communicates to the prospective customer the identity of the source of the referral;

(h) Receive a bonus, commission or other benefit for referring an individual to a person;

(i) Structure a plan in a manner that would result in a negative amortization of any of an individual's debts, unless a creditor that is owed a negatively amortizing debt agrees to refund or waive the finance charge upon payment of the principal amount of the debt;

(j) Compensate its employees on the basis of a formula that incorporates the number of individuals the employee induces to enter into agreements;

(k) Settle a debt or lead an individual to believe that a payment to a creditor is in settlement of a debt to the creditor unless, at the time of settlement, the individual receives a certification by the creditor that the payment is in full settlement of the debt or is part of a payment plan, the terms of which are included in the certification, that on completion will lead to full settlement of the debt;

(l) Make a representation that:

(1) The provider will furnish money to pay bills or prevent attachments;

(2) Payment of a certain amount will permit satisfaction of a certain amount or range of indebtedness; or

(3) Participation in a plan will or may prevent litigation, garnishment, attachment, repossession, foreclosure, eviction or loss of employment;

(m) Misrepresent that it is authorized or competent to furnish legal advice or perform legal services;

(n) Represent in its agreements, disclosures required by this chapter, advertisements or Internet website that it is a not-for-profit entity unless it is organized and properly operating as a not-for-profit entity under the law of the state in which it was formed or a tax-exempt entity unless it has received certification of tax-exempt status from the Internal Revenue Service and is properly operating as a not-for-profit entity under the law of the state in which it was formed;

(o) Take a confession of judgment or power of attorney to confess judgment against an individual; ~~*[or]*~~

(p) Employ an unfair, unconscionable or deceptive act or practice, including, without limitation, the knowing omission of any material information ~~*[.]*~~ ***;***

(q) Receive any compensation from the creditors of an individual, unless the compensation is a donation for the operating costs of the provider; or

(r) If the provider furnishes debt settlement services, represent that the provider is able to prevent telephone calls from creditors.

2. If a provider furnishes debt-management services to an individual, the provider may not, directly or indirectly:

(a) Purchase a debt or obligation of the individual;

(b) Receive from or on behalf of the individual:

(1) A promissory note or other negotiable instrument other than a check or a demand draft; or

(2) A postdated check or demand draft;

(c) Lend money or provide credit to the individual, except as a deferral of a settlement fee at no additional expense to the individual;

(d) Obtain a mortgage or other security interest from any person in connection with the services provided to the individual;

(e) Except as permitted by federal law, disclose the identity or identifying information of the individual or the identity of the individual's creditors, except to:

(1) The Commissioner, upon proper demand;

(2) A creditor of the individual, to the extent necessary to secure the cooperation of the creditor in a plan; or

(3) The extent necessary to administer the plan;

(f) Except as otherwise provided in subsection 6 of section 45 of this act, provide the individual less than the full benefit of a compromise of a debt arranged by the provider;

(g) Charge the individual for or provide credit or other insurance, coupons for goods or services, membership in a club, access to computers or the Internet or any other matter not directly related to debt-management services or educational or counseling services concerning personal finance, except to the extent such services are expressly authorized by the Commissioner; ~~*[or]*~~

(h) Furnish legal advice or perform legal services, unless the person furnishing that advice to or performing those services for the individual is licensed to practice law ~~*[.]*~~ ***; or***

(i) With respect to debt settlement services:

(1) Have an ownership interest in, or any control of, the settlement account of an individual to whom the provider is providing debt settlement services; or

(2) Provide debt settlement services with respect to a secured debt, a debt which was at any time a secured debt or a loan to which chapter 604A of NRS applies or include a secured debt, debt which was at any time a secured debt or a loan to which chapter 604A of NRS applies in the calculation of the provider's fee.

3. A provider, or an employee, officer or agent of a provider, may not provide legal services or advice or represent that the provider, or an employee, officer or agent of the provider, is authorized or competent to provide legal services or advice, unless the person providing legal services or advice, or about whom the representations concerning the provision of legal services or advice were made, is authorized to practice law in this State. As used in this subsection, "legal services or advice" include, without limitation, an analysis of the rights of a creditor or debtor with respect to a debt, advice concerning a response to legal filings or actions and

predictions of the likely outcome of litigation or arbitration concerning a debt.

4. This chapter does not authorize any person to engage in the practice of law.

~~*[4.]*~~ ***5. A provider may not receive a gift or bonus, premium, reward or other compensation, directly or indirectly, for advising, arranging or assisting an individual in connection with obtaining an extension of credit or other service from a lender or service provider, except for educational or counseling services required in connection with a government-sponsored program.***

~~*[5.]*~~ ***6. Unless a person supplies goods, services or facilities generally and supplies them to the provider at a cost no greater than the cost the person generally charges to others, a provider may not purchase goods, services or facilities from the person if an employee or a person that the provider should reasonably know is an affiliate of the provider:***

(a) Owns more than 10 percent of the person; or

(b) Is an employee or affiliate of the person.

Sec. 51. ***Not later than 30 days after a provider has been served with notice of a civil action for violation of this chapter by or on behalf of an individual who resides in this State at either the time of an agreement or the time the notice is served, the provider shall notify the Commissioner in a record that it has been sued.***

Sec. 52. ***1. If the agreements of a provider contemplate that*** ~~*[creditors will reduce finance charges or fees for late payment, default or delinquency and]*~~ ***the provider will develop and implement a debt-management plan and the provider advertises debt-management services, it shall disclose, in an easily comprehensible manner, that using a debt-management plan may make it harder for the individual to obtain credit.***

2. If the agreements of a provider contemplate that ~~*[creditors will settle for less than the full principal amount of the debt]*~~ ***the provider will provide debt settlement services and the provider advertises*** ~~*[debt management]*~~ ***debt settlement services, it shall disclose, in an easily comprehensible manner, the information specified in paragraphs (c) and (d) of subsection 4 of section 39 of this act.***

Sec. 53. ***If a provider delegates any of its duties or obligations under an agreement or this chapter to another person, including, without limitation, an independent contractor, the provider is liable for conduct of the person which, if done by the provider, would violate the agreement or this chapter.***

Sec. 54. ***1. The Commissioner may act on his own initiative or in response to complaints and may receive complaints, take action to obtain voluntary compliance with this chapter, refer cases to the Attorney General and seek or provide remedies as provided in this chapter.***

2. The Commissioner may investigate and examine, in this State or elsewhere, by subpoena or otherwise, the activities, books, accounts and

records of a person that provides or offers to provide debt-management services, or a person to which a provider has delegated its obligations under an agreement or this chapter, to determine compliance with this chapter. Information that identifies individuals who have agreements with the provider must not be disclosed to the public. In connection with the investigation, the Commissioner may:

(a) Charge the person the reasonable expenses necessarily incurred to conduct the examination;

(b) Require or permit a person to file a statement under oath as to all the facts and circumstances of a matter to be investigated; and

(c) Seek a court order authorizing seizure from a bank at which the person maintains a trust account required by section 44 of this act, any or all money, books, records, accounts and other property of the provider that is in the control of the bank and relates to individuals who reside in this State.

3. The Commissioner may adopt regulations to implement the provisions of this chapter.

4. The Commissioner may enter into cooperative arrangements with any other federal or state agency having authority over providers and may exchange with any of those agencies information about a provider, including, without limitation, information obtained during an examination of the provider.

5. The Commissioner, by regulation, shall establish reasonable fees to be paid by providers for the expense of administering this chapter. The Commissioner may, in his discretion, establish a reduced fee schedule for providers that are qualified nonprofit entities.

6. The Commissioner, by regulation, shall adopt dollar amounts instead of those specified in sections 4, 27, 31, 35, 45, 55 and 57 of this act to reflect inflation, as measured by the Consumer Price Index for All Urban Consumers, published by the United States Department of Labor, or, if that Index is not available, another index adopted by regulation by the Commissioner. The Commissioner shall adopt a base year and adjust the dollar amounts, effective on July 1 of each year, if the change in the index from the base year, as of December 31 of the preceding year, is at least 10 percent. The dollar amount must be rounded to the nearest $100, except that the amounts in section 45 of this act must be rounded to the nearest dollar.

7. The Commissioner shall notify registered providers of any change in dollar amounts made pursuant to subsection 6 and make that information available to the public.

8. The Commissioner, by regulation, may:

(a) Require a provider to make additional disclosures before an individual assents to an agreement, including, without limitation, disclosures that:

(1) Nothing in the agreement requires the individual's creditors to accept payments pursuant to a plan.

(2) Nothing in the agreement prevents creditors of the individual from pursuing collection efforts, including, without limitation, telephone calls for the purpose of collecting a debt, and that creditors may sue the individual for any debt that remains unpaid.

(3) The provider cannot provide legal services or advice and, if the individual is sued, the individual should seek legal services or advice.

(4) The provider is not a credit repair organization and does not claim that the plan will have a positive impact on the credit score of the individual.

(5) If an agreement contemplates that a provider will develop and implement a debt-management plan, a creditor may be included in the debt-management plan even if the creditor does not make a contribution.

(b) Establish any requirements and prohibitions with respect to advertising by providers which do not violate the Nevada Constitution or the Constitution of the United States. Such regulations may include, without limitation, a requirement that a provider submit all advertising used by the provider to the Commissioner within 30 days after the first publication of the advertisement.

Sec. 55. ***1. The Commissioner may enforce this chapter and regulations adopted under this chapter by taking one or more of the following actions:***

(a) Ordering a provider or a director, employee or other agent of a provider to cease and desist from any violations;

(b) Ordering a provider or a person that has caused a violation to correct the violation, including, without limitation, making restitution of money or property to a person aggrieved by a violation;

(c) Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, imposing on a provider or a person that has caused a violation a civil penalty not to exceed $10,000 for each violation;

(d) Prosecuting a civil action to:

(1) Enforce an order; or

(2) Obtain restitution or an injunction or other equitable relief, or both; or

(e) Intervening in an action brought under section 57 of this act.

2. Subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, if a person violates or knowingly authorizes, directs or aids in the violation of a final order issued under paragraph (a) or (b) of subsection 1, the Commissioner may impose a civil penalty not to exceed $20,000 for each violation.

3. The Commissioner may maintain an action to enforce this chapter in any county.

4. The Commissioner may recover the reasonable costs of enforcing this chapter under subsections 1, 2 and 3, including, without limitation,

attorney's fees based on the hours reasonably expended and the hourly rates for attorneys of comparable experience in the community.

5. In determining the amount of a civil penalty to impose under subsection 1 or 2, the Commissioner shall consider the seriousness of the violation, the good faith of the violator, any previous violations by the violator, the deleterious effect of the violation on the public, the net worth of the violator and any other factor the Commissioner considers relevant to the determination of the civil penalty.

Sec. 56. ***1. The Commissioner may suspend, revoke or deny renewal of a provider's registration if:***

(a) A fact or condition exists that, if it had existed when the registrant applied for registration as a provider, would have been a reason for denying registration;

(b) The provider has committed a material violation of this chapter or a rule or order of the Commissioner under this chapter;

(c) The provider is insolvent;

(d) The provider or an employee or affiliate of the provider has refused to permit the Commissioner to make an examination authorized by this chapter, failed to comply with paragraph (b) of subsection 2 of section 54 of this act within 15 days after request, or made a material misrepresentation or omission in complying with paragraph (b) of subsection 2 of section 54 of this act; or

(e) The provider has not responded within a reasonable time and in an appropriate manner to communications from the Commissioner.

2. If a provider does not comply with subsection 6 of section 44 of this act or if the Commissioner otherwise finds that the public health or safety or general welfare requires emergency action, the Commissioner may order a summary suspension of the provider's registration, effective on the date specified in the order.

3. If the Commissioner suspends, revokes or denies renewal of the registration of a provider, the Commissioner may seek a court order authorizing seizure of any or all of the money in a trust account required by section 44 of this act, books, records, accounts and other property of the provider which are located in this State.

4. If the Commissioner suspends or revokes a provider's registration, the provider may appeal and request a hearing pursuant to NRS 233B.121 to 233B.150, inclusive.

5. As used in this section, "insolvent" means:

(a) Having generally ceased to pay debts in the ordinary course of business other than as a result of good faith dispute;

(b) Being unable to pay debts as they become due; or

(c) Being insolvent within the meaning of the federal bankruptcy law, 11 U.S.C. 101 et seq.

Sec. 57. ***1. If an individual voids an agreement pursuant to subsection 2 of section 47 of this act, the individual may recover in a civil***

action all money paid or deposited by or on behalf of the individual pursuant to the agreement, except amounts paid to creditors, in addition to the recovery under paragraph (c) and (d) of subsection 3.

2. If an individual voids an agreement pursuant to subsection 1 of section 47 of this act, the individual may recover in a civil action three times the total amount of the fees, charges, money and payments made by the individual to the provider, in addition to the recovery under paragraph (d) of subsection 3.

3. Subject to subsection 4, an individual with respect to whom a provider violates this chapter may recover in a civil action from the provider and any person that caused the violation:

(a) Compensatory damages for injury, including, without limitation, noneconomic injury, caused by the violation;

(b) Except as otherwise provided in subsection 4 and subject to adjustment of the dollar amount pursuant to subsection 6 of section 54 of this act, with respect to a violation of section 39, 41 to 46, inclusive, or 49 of this act or subsection 1, 2 or ~~[4]~~ 5 of section 50 of this act, the greater of the amount recoverable under paragraph (a) or $5,000;

(c) Punitive damages; and

(d) Reasonable attorney's fees and costs.

4. In a class action, except for a violation of paragraph (e) of subsection 1 of section 50 of this act, the minimum damages provided in paragraph (b) of subsection 3 do not apply.

5. In addition to the remedy available under subsection 3, if a provider violates an individual's rights under section 42 of this act, the individual may recover in a civil action all money paid or deposited by or on behalf of the individual pursuant to the agreement, except for amounts paid to creditors.

6. A provider is not liable under this section for a violation of this chapter if the provider proves that the violation was not intentional and resulted from a good faith error notwithstanding the maintenance of procedures reasonably adapted to avoid the error. An error of legal judgment with respect to a provider's obligations under this chapter is not a good faith error. If, in connection with a violation, the provider has received more money than authorized by an agreement or this chapter, the defense provided by this subsection is not available unless the provider refunds the excess within 2 business days after learning of the violation.

7. The Commissioner shall assist an individual in enforcing a judgment against the surety bond or other security provided under section 35 or 36 of this act.

Sec. 58. ***1. A violation of a provision of this chapter constitutes a deceptive trade practice for the purposes of NRS 598.0903 to 598.0999, inclusive.***

2. If an act or practice of a provider violates both a provision of this chapter and a provision of chapter 598 of NRS, an individual may not recover under both for the same act or practice.

Sec. 59. ***1. An action or proceeding brought pursuant to subsection 1, 2 or 3 of section 55 of this act must be commenced within 4 years after the conduct that is the basis of the Commissioner's complaint.***

2. An action brought pursuant to section 57 of this act must be commenced within 2 years after the latest of:

(a) The individual's last transmission of money to a provider;

(b) The individual's last transmission of money to a creditor at the direction of the provider;

(c) The provider's last disbursement to a creditor of the individual;

(d) The provider's last accounting to the individual pursuant to subsection 1 of section 49 of this act;

(e) The date on which the individual discovered or reasonably should have discovered the facts giving rise to the individual's claim; or

(f) Termination of actions or proceedings by the Commissioner with respect to a violation of the chapter.

3. The period prescribed in paragraph (e) of subsection 2 is tolled during any period during which the provider or, if different, the defendant has materially and willfully misrepresented information required by this chapter to be disclosed to the individual, if the information so misrepresented is material to the establishment of the liability of the defendant under this chapter.

Sec. 60. ***In applying and construing the Uniform Debt-Management Services Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.***

Sec. 61. ***This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., but does not modify, limit or supersede section 101(c) of that act, 15 U.S.C. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. 7003(b).***

Sec. 62. NRS 598.741 is hereby amended to read as follows:

598.741 As used in NRS 598.741 to 598.787, inclusive, unless the context otherwise requires:

1. "Buyer" means a natural person who is solicited to purchase or who purchases the services of an organization which provides credit services.

2. "Commissioner" means the Commissioner of Consumer Affairs.

3. "Division" means the Consumer Affairs Division of the Department of Business and Industry.

4. "Extension of credit" means the right to defer payment of debt or to incur debt and defer its payment, offered or granted primarily for personal, family or household purposes.

5. "Organization":

(a) Means a person who, with respect to the extension of credit by others, sells, provides or performs, or represents that he can or will sell, provide or perform, any of the following services, in return for the payment of money or other valuable consideration:

(1) Improving a buyer's credit record, history or rating.

(2) Obtaining an extension of credit for a buyer.

(3) Providing counseling or assistance to a person in establishing or effecting a plan for the payment of his indebtedness, unless that counseling or assistance is provided by and is within the scope of the authorized practice of a ~~[debt adjuster licensed]~~ ***provider of debt-management services registered*** pursuant to ~~[chapter 676 of NRS.]~~ ***sections 2 to 61, inclusive, of this act.***

(4) Providing advice or assistance to a buyer with regard to subparagraph (1) or (2).

(b) Does not include:

(1) A person organized, chartered or holding a license or authorization certificate to make loans or extensions of credit pursuant to the laws of this state or the United States who is subject to regulation and supervision by an officer or agency of this state or the United States.

(2) A bank, credit union or savings and loan institution whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

(3) A person licensed as a real estate broker by this state where the person is acting within the course and scope of that license, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.

(4) A person licensed to practice law in this state where the person renders services within the course and scope of his practice as an attorney at law, unless the person is rendering those services in the course and scope of employment by or other affiliation with an organization.

(5) A broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission where the broker-dealer is acting within the course and scope of such regulation.

(6) A person ~~[licensed]~~ ***registered*** as a ~~[debt adjuster]~~ ***provider of debt-management services*** pursuant to ~~[chapter 676 of NRS.]~~ ***sections 2 to 61, inclusive, of this act.***

(7) A reporting agency.

6. "Reporting agency" means a person who, for fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the business of assembling or evaluating information regarding the credit of or other information regarding consumers to furnish consumer reports to third parties, regardless of the means or facility of commerce used to prepare or furnish the consumer reports. The term does not include:

(a) A person solely for the reason that he conveys a decision regarding whether to guarantee a check in response to a request by a third party;

(b) A person who obtains or creates a consumer report and provides the report or information contained in it to a subsidiary or affiliate; or

(c) A person licensed pursuant to chapter 463 of NRS.

Sec. 63. NRS 645F.380 is hereby amended to read as follows:

645F.380 The provisions of NRS 645F.300 to 645F.450, inclusive, do not apply to, and the terms "foreclosure consultant" and "foreclosure purchaser" do not include:

1. An attorney at law rendering services in the performance of his duties as an attorney at law;

2. A ~~[person, firm, company or corporation licensed to engage in the business of debt adjustment pursuant to chapter 676 of NRS while engaging in that business;]~~ ***provider of debt-management services registered pursuant to sections 2 to 61, inclusive, of this act while providing debt-management services pursuant to sections 2 to 61, inclusive, of this act;***

3. A person licensed as a real estate broker, broker-salesman or salesman pursuant to chapter 645 of NRS while acting under the authority of that license;

4. A person or the authorized agent of a person acting under the provisions of a program sponsored by the Federal Government, this State or a local government, including, without limitation, the Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Federal Home Loan Bank;

5. A person who holds or is owed an obligation secured by a mortgage or other lien on a residence in foreclosure if the person performs services in connection with this obligation or lien and the obligation or lien did not arise as the result of or as part of a proposed foreclosure reconveyance;

6. Any person doing business under the laws of this State or of the United States relating to banks, trust companies, savings and loan associations, industrial loan and thrift companies, regulated lenders, credit unions, insurance companies, or a mortgagee which is a United States Department of Housing and Urban Development approved mortgagee and any subsidiary or affiliate of those persons, and any agent or employee of those persons while engaged in the business of those persons;

7. A person licensed as an escrow agent, title agent, mortgage agent, mortgage broker or mortgage banker pursuant to chapter 645A, 692A, 645B or 645E of NRS, respectively, while acting under the authority of his license;

8. A nonprofit agency or organization that offers credit counseling or advice to a homeowner of a residence in foreclosure or a person in default on a loan; or

9. A judgment creditor of the homeowner whose claim accrued before the recording of the notice of the pendency of an action for foreclosure against the homeowner pursuant to NRS 14.010 or the recording of the notice of default and election to sell pursuant to NRS 107.080.

Sec. 64. NRS 658.098 is hereby amended to read as follows:

658.098 1. On a quarterly or other regular basis, the Commissioner shall collect an assessment pursuant to this section from each:

(a) Check-cashing service or deferred deposit loan service that is supervised pursuant to chapter 604A of NRS;

(b) Collection agency that is supervised pursuant to chapter 649 of NRS;

(c) Bank that is supervised pursuant to chapters 657 to 668, inclusive, of NRS;

(d) Trust company that is supervised pursuant to chapter 669 of NRS;

(e) Development corporation that is supervised pursuant to chapter 670 of NRS;

(f) Corporation for economic revitalization and diversification that is supervised pursuant to chapter 670A of NRS;

(g) Person engaged in the business of selling or issuing checks or of receiving for transmission or transmitting money or credits that is supervised pursuant to chapter 671 of NRS;

(h) Savings and loan association that is supervised pursuant to chapter 673 of NRS;

(i) Person engaged in the business of lending that is supervised pursuant to chapter 675 of NRS;

(j) ~~[~~Person engaged in the business of debt adjusting that is supervised pursuant to chapter 676 of NRS;

~~(k)]~~ Thrift company that is supervised pursuant to chapter 677 of NRS; and

~~[(l)]~~ ***(k)*** Credit union that is supervised pursuant to chapter 678 of NRS.

2. The Commissioner shall determine the total amount of all assessments to be collected from the entities identified in subsection 1, but that amount must not exceed the amount necessary to recover the cost of legal services provided by the Attorney General to the Commissioner and to the Division of Financial Institutions. The total amount of all assessments collected must be reduced by any amounts collected by the Commissioner from an entity for the recovery of the costs of legal services provided by the Attorney General in a specific case.

3. The Commissioner shall collect from each entity identified in subsection 1 an assessment that is based on:

(a) A portion of the total amount of all assessments as determined pursuant to subsection 2, such that the assessment collected from an entity identified in subsection 1 shall bear the same relation to the total amount of all assessments as the total assets of that entity bear to the total of all assets of all entities identified in subsection 1; or

(b) Any other reasonable basis adopted by the Commissioner.

4. The assessment required by this section is in addition to any other assessment, fee or cost required by law to be paid by an entity identified in subsection 1.

5. Money collected by the Commissioner pursuant to this section must be deposited in the State Treasury pursuant to the provisions of NRS 658.091.

Sec. 65. NRS 676.010, 676.015, 676.020, 676.030, 676.040, 676.050, 676.060, 676.070, 676.080, 676.100, 676.110, 676.120, 676.125, 676.130, 676.135, 676.140, 676.150, 676.160, 676.170, 676.180, 676.190, 676.200, 676.205, 676.207, 676.210, 676.220, 676.230, 676.235, 676.240, 676.250, 676.260, 676.270, 676.280, 676.290, 676.295, 676.300, 676.310, 676.320, 676.330, 676.335 and 676.340 are hereby repealed.

Sec. 66. Transactions entered into before July 1, 2010, and the rights, duties and interests resulting from them may be completed, terminated or enforced as required or permitted by a law amended, repealed or modified by this act as though the amendment, repeal or modification had not occurred.

Sec. 67. 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, 2010, for all other purposes.

LEADLINES OF REPEALED SECTIONS

676.010 Definitions.
676.015 "Commissioner" defined.
676.020 "Contract" defined.
676.030 "Creditor" defined.
676.040 "Debt adjustment" defined.
676.050 "Debtor" defined.
676.060 "License" defined.
676.070 "Licensee" defined.
676.080 "Office" defined.
676.100 Applicability.
676.110 Engaging in business of debt adjusting without license or in violation of chapter prohibited.
676.120 Application; withdrawal of application.
676.125 Application for license: Additional requirements; fingerprints; grounds for refusal of license.
676.130 Submission of fees, bond and copy of contract with application; regulations; periodic determination of amount of bond.
676.135 Deposit as substitute for surety bond.
676.140 Investigation of applicants.
676.150 Issuance of license subsequent to findings by Commissioner.
676.160 Expiration, renewal and reinstatement of license; fees; regulations.
676.170 Disposition of fees and charges.
676.180 Display of license required.
676.190 Transfer of license prohibited.

676.200 Additional licenses for other offices.

676.205 Notification of change in ownership of stock; application for license after certain acquisitions; investigation; costs; waiver.

676.207 Use or change of business name; prohibitions.

676.210 Surrender.

676.220 Maintenance of separate trust accounts; maintenance and preservation of records.

676.230 Reports required.

676.235 Independent audit and examination: Payment of assessment; cooperation.

676.240 Contracts: Form; contents.

676.250 Fees.

676.260 Remittances to creditors; written statements of account and information on account to debtor.

676.270 Authorization of Commissioner to investigate business; free access required; compelling attendance of witnesses; fee.

676.280 Authority of Commissioner to require attendance of witnesses and production of documents.

676.290 Grounds for denial, suspension or revocation of license; administrative fine for violation.

676.295 Suspension or revocation of license: Additional grounds.

676.300 Temporary suspension of license: Conditions; notice; hearing; term of suspension.

676.310 Order denying or revoking license; contracts unaffected by disciplinary action or expiration of license.

676.320 Engaging in business without license.

676.330 Prohibited practices.

676.335 Administrative fines.

676.340 Violation of chapter.

Assemblyman Conklin moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 408.

Bill read second time and ordered to third reading.

Senate Bill No. 411.

Bill read second time.

The following amendment was proposed by the Committee on Natural Resources, Agriculture, and Mining:

Amendment No. 840.

SUMMARY—Revises provisions governing ~~[~~the issuance of~~]~~ hunting, fishing and trapping**.** ~~[~~licenses.~~]~~ (BDR 45-1177)

AN ACT relating to wildlife; providing for the permanent revocation of a license, permit or privilege to hunt, fish or trap in certain circumstances; requiring a person to maintain a principal and permanent residence in this

State to be eligible for a resident license, tag or permit to hunt, fish or trap; providing for the forfeiture of a bonus point or other increased opportunity to be awarded a tag for making a false statement or furnishing false information in certain circumstances; requiring a person seeking to obtain a license, tag or permit on behalf of another for a fee or other compensation to have a power of attorney to do so; **making it unlawful intentionally to remove, disturb or interfere with the trap of a holder of a trapping license under certain circumstances; providing a penalty;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a license, permit or privilege of a person to hunt, fish or trap may be suspended or revoked for wildlife convictions, but not for more than 3 years except in certain circumstances. The license, permit or privilege of a person who is convicted pursuant to NRS 501.376 of: (1) a gross misdemeanor may not be suspended or revoked for more than 5 years; and (2) a felony may not be suspended or revoked for more than 10 years. (NRS 501.1816) **Section 2** of this bill expands the suspension and revocation penalties to require that the license, permit or privilege of a person who has been convicted of two or more felonies pursuant to NRS 501.376 be permanently revoked.

Existing law requires that a person meet certain requirements before he can be issued a resident license, tag or permit pursuant to chapter 502 of NRS. (NRS 502.015) **Section 3** of this bill clarifies the language regarding domicile to mean maintaining a principal and permanent residence in this State beyond just owning a home in Nevada.

Existing law prohibits giving a false statement or furnishing false information to obtain any license, tag or permit, making such an action a misdemeanor, or to obtain a big game tag, making such an action a gross misdemeanor. (NRS 502.060) **Section 4** of this bill adds a provision that any person who is convicted of giving a false statement or furnishing false information to obtain a license, tag, permit or big game tag forfeits any bonus point or other increased opportunity to be awarded a tag in a subsequent drawing.

Existing law requires a person attempting to obtain a license, tag or permit on behalf of another person to have a power of attorney giving him the authority to do so. (NRS 502.061) **Section 5** of this bill restricts the requirement to have a power of attorney to only those persons attempting to acquire a license, tag or permit on behalf of another for a fee or other compensation.

Existing law makes it unlawful for a person to remove or disturb the trap of a holder of a trapping license while the trap is being used by the trapper on public land or on land where he has permission to trap. (NRS 503.454) If a person commits such a violation, he is guilty of a misdemeanor punishable by a fine of not less than $50 or more than $500, or by imprisonment in the county jail for not more than 6 months,

or by both fine and imprisonment. (NRS 501.385) Section 6 of this bill revises existing law by making it unlawful for a person intentionally to remove, disturb or interfere with the trap of the holder of the trapping license. Section 6 defines the phrase "interfere with" to mean any act that physically impedes, hinders or obstructs the trap.

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

Section 1. NRS 501.1814 is hereby amended to read as follows:

501.1814 1. The Commission shall establish and the Department shall administer and enforce a system of assessing demerit points for wildlife convictions. The system must be uniform in its operation.

2. Pursuant to the schedule of demerit points established by regulation of the Commission for each wildlife conviction occurring within this State affecting any holder of a license, permit or privilege issued pursuant to this title, the Department shall assess demerit points for the 60-month period preceding a person's most recent wildlife conviction. Sixty months after the date of the conviction, the demerit points for that conviction must be deleted from the total demerit points accumulated by that person. The date of the ~~[violation]~~ ***conviction*** shall be deemed the date on which accumulated demerit points must be assessed. If a conviction of two or more wildlife violations committed at a single event is obtained, demerit points must be assessed for the offense having the greater number of demerit points.

Sec. 2. NRS 501.1816 is hereby amended to read as follows:

501.1816 1. If a person accumulates 9 or more demerit points, but less than 12, the Department shall notify him of that fact by certified mail. If, after the Department mails the notice, the person presents proof to the Department that he has, after his most recent wildlife conviction, successfully completed a course of instruction in the responsibilities of hunters approved by the Department, the Department shall deduct 4 demerit points from his record. A person may attend a course of instruction in the responsibilities of hunters only once in 60 months for the purpose of reducing his demerit points.

2. If a person accumulates 12 or more demerit points before completing a course of instruction pursuant to subsection 1, the Department shall suspend or revoke any license, permit or privilege issued to him pursuant to this title.

3. Not later than 60 days after the Department determines that a person has accumulated 12 demerit points, the Department shall notify the person by certified mail that his privileges will be suspended or revoked. Except as otherwise provided in subsection 4, the Department shall suspend or revoke those privileges 30 days after it mails the notice.

4. Any person who receives the notice required by subsection 3 may submit to the Department a written request for a hearing before the Commission not later than 30 days after the receipt of the notice. If a written request for a hearing is received by the Department:

(a) The suspension or revocation of the license, permit or privilege is stayed until a determination is made by the Commission after the hearing.

(b) The hearing must be held within 60 days after the request is received.

5. The periods of suspension or revocation imposed pursuant to this section must run concurrently. Except as otherwise provided in this subsection, no license, permit or privilege may be suspended or revoked pursuant to this section for more than 3 years. The license, permit or privilege of a person who is convicted pursuant to NRS 501.376 of:

(a) A gross misdemeanor may not be suspended or revoked for more than 5 years; ~~[or]~~

(b) ~~[A]~~ ***Except as otherwise provided in paragraph (c), a*** felony may not be suspended or revoked for more than 10 years ~~[.]~~ ***; or***

(c) Two or more felonies, arising from separate events, must be permanently revoked.

6. If the Department suspends or revokes a license, permit or privilege pursuant to this section, the period of suspension or revocation begins 30 days after notification pursuant to subsection 3 or a determination is made by the Commission pursuant to subsection 4. After a person's license, permit or privilege is suspended or revoked pursuant to this section, all demerit points accumulated by that person must be cancelled.

Sec. 3. NRS 502.015 is hereby amended to read as follows:

502.015 1. For the purpose of issuing and using resident licenses, tags or permits pursuant to this chapter, a person is considered to be a resident of the State of Nevada if:

(a) He is a citizen of, or is lawfully entitled to remain in, the United States; and

(b) During the 6 months next preceding his application to the Department for a license, tag or permit, he:

(1) ~~[Was domiciled]~~ ***Maintained his principal and permanent residence*** in this State;

(2) Was physically present in this State, except for temporary absences; and

(3) Did not purchase or apply for any resident license, tag or permit to hunt, fish or trap in another state, country or province.

2. A person who ~~[is not domiciled]~~ ***does not maintain his principal and permanent residence*** in Nevada but who is attending an institution of higher learning in this State as a full-time student is eligible for a resident license, tag or permit if, during the 6 months next preceding his application to the Department for a license, tag or permit, he:

(a) Was physically present in Nevada, except for temporary trips outside of the State; and

(b) Did not purchase or apply for any resident license, tag or permit to hunt, fish or trap in another state, country or province.

3. A resident license, tag or permit issued by this State is void if the person to whom it was issued establishes ***or maintains*** his ~~[domicile]~~

principal and permanent residence in and obtains any ***hunting, fishing or trapping*** privilege or entitlement conditional on residency from another state, country or province.

4. As used in this section, "principal and permanent residence" means a place where a person is legally domiciled and maintains a permanent habitation in which he lives and to which he intends to return when he leaves the state in which the permanent habitation is located. The term does not include merely owning a residence in a state.

Sec. 4. NRS 502.060 is hereby amended to read as follows:

502.060 1. A person applying for and procuring a license, ***tag or permit,*** as provided in this chapter, shall give to the license agent his name and residence address, which must be entered by the license agent ~~[on the license and stub,]~~ ***, manually or electronically in a record specified by the Department,*** together with the date of issuance and a description of the person. If a child under the age of 18 years is applying for a license to hunt, the child's parent or legal guardian must sign the application and an attached statement acknowledging that the parent or legal guardian has been advised of the provisions of NRS 41.472.

2. Except as otherwise provided in subsection 3, any person who makes any false statement or furnishes false information to obtain any license, tag or permit issued pursuant to the provisions of this title is guilty of a misdemeanor.

3. Any person who makes any false statement or furnishes false information to obtain any big game tag issued pursuant to the provisions of this title is guilty of a gross misdemeanor.

4. It is unlawful for any person to hunt, fish or trap using any hunting, fishing or trapping license which is invalid by reason of expiration or a false statement made to obtain the license.

5. ***Any person convicted of violating the provisions of subsection 2 or 3 forfeits any bonus point or other increased opportunity to be awarded a tag in a subsequent drawing conducted for that tag if the bonus point or other increased opportunity was acquired by the false statement or false information.***

6. As used in this section, "big game tag" means a tag permitting a person to hunt any species of pronghorn antelope, bear, deer, mountain goat, mountain lion, bighorn sheep or elk.

Sec. 5. NRS 502.061 is hereby amended to read as follows:

502.061 1. A person ***, for a fee or other form of compensation,*** may obtain or attempt to obtain on behalf of an applicant any license, tag or permit issued pursuant to this chapter ***only*** if the person acts pursuant to a power of attorney or other written instrument that:

(a) Provides that the power of attorney or other written instrument is executed for the sole purpose of authorizing the person to apply in the State of Nevada on behalf of the applicant for a license, tag or permit for a specific season;

(b) Provides that the power of attorney or other written instrument expires on February 28 of the year following the year in which the power of attorney or other written instrument is executed; and

(c) Is acknowledged and includes a jurat as defined in NRS 240.0035, or is otherwise certified.

2. Any license, tag or permit which is obtained by the use of a power of attorney or other written instrument that does not comply with the provisions of subsection 1 is void.

Sec. 6. **NRS 503.454 is hereby amended to read as follows:**

503.454 1. Every person who takes fur-bearing mammals by any legal method or unprotected mammals by trapping or sells raw furs for profit shall procure a trapping license.

2. It is unlawful ***intentionally*** to remove **,** ~~[or]~~ disturb ***or interfere with*** the trap of any holder of a trapping license while the trap is being legally used by him on public land or on land where he has permission to trap. ***As used in this subsection, "interfere with" means any act that physically impedes, hinders or obstructs the trap.***

~~[Sec. 6.]~~ ***Sec. 7.*** This act becomes effective on January 1, 2010.

Assemblyman Claborn moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that upon return from the printer Senate Bills Nos. 152, 230, 269 be placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera gave notice pursuant to Assembly Standing Rule No. 91 that on the next legislative day, he would move to amend Assembly Standing Rule No. 115.

Assemblyman Oceguera moved that Senate Bills Nos. 47, 73, 82, 160, 265, and 277 be taken from their position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Oceguera moved that Senate Bills Nos. 218 and 376 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 355 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that Senate Bills Nos. 53 and 63 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblywoman Kirkpatrick moved that Senate Bill No. 396 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Horne moved that Senate Bill No. 47 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

Assemblyman Claborn moved that Senate Bill No. 108 be taken from the Chief Clerk's desk and placed on the top of the General File.

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 11:31 a.m.

ASSEMBLY IN SESSION

At 12:18 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 562, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 100.

The following Senate amendment was read:

Amendment No. 617.

AN ACT relating to education; revising the duties of the Deputy Superintendent for Administrative and Fiscal Services in the Department of Education relating to charter schools; revising provisions governing charter schools and university schools for profoundly gifted pupils; revising provisions governing the annual reports of school districts and charter schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Deputy Superintendent for Administrative and Fiscal Services in the Department of Education investigates, inspects and reports on the funds and accounts of school districts. (NRS 385.315) **Section 1** of this bill requires the Deputy Superintendent to perform similar duties for the funds and accounts of charter schools and university schools for profoundly gifted pupils.

The governing body of a charter school is required to appoint a trustee upon closure of the school. (NRS 386.536) **Section 2** of this bill provides that the trustee appointed by the governing body is subject to the approval of the sponsor and requires the sponsor to make the appointment if the governing body is not able to do so. **Section 2** also provides that if the sponsor of a charter school provides financial compensation to the administrator or person appointed by the governing body, the sponsor may receive reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation for a period not to exceed 6 months.

A charter school that meets certain requirements, including certain financial and performance standards, is eligible for an exemption from an annual performance audit and must instead undergo a performance audit every 3 years. (NRS 386.5515) **Section 3** of this bill provides that if such a charter school no longer satisfies the requirements for an exemption or if reasonable evidence of noncompliance ~~[concerning the educational progress]~~ **in achieving the educational goals and objectives of the charter school** exists, the charter school shall submit to an annual performance audit.

Existing law provides that upon the request of a parent or legal guardian of a pupil enrolled in a charter school, the board of trustees of the school district in which the charter school is located shall authorize the pupil to participate in a class, extracurricular activity and sports within the school district under certain circumstances. **Section 4** of this bill amends existing law to provide for such participation in the school district in which the pupil resides rather than the school district in which the charter school is located. (NRS 386.560)

The sponsor of a charter school may request, upon completion of each school year, reimbursement from the governing body of the school for the administrative costs associated with sponsorship. The total amount of such administrative costs must not exceed a specified percentage of the total amount of money apportioned to the charter school during the year. (NRS 386.570) **Section 5** of this bill revises the schedule of payments for reimbursement of administrative costs from yearly to quarterly. ~~[.]~~ **and authorizes a charter school to apply for a delay in the payment of a quarterly reimbursement if a financial hardship exists.** **Section 5** also provides that to determine the maximum amount of administrative costs, the total amount apportioned to the charter school during the year must be adjusted by the final computation of apportionment for the school.

Sections 6 and 9 of this bill revise provisions governing the annual reports of charter schools and school districts. (NRS 386.600, 387.303)

The Department of Education is required to develop a formula for determining the minimum amount of money that each school district is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. (NRS 387.206) **Section 8** of this bill requires the development of such a formula and minimum expenditures for charter schools.

Existing law requires the board of trustees of a school district and a college or university within the Nevada System of Higher Education which sponsors a charter school to submit an annual report to the State Board of Education on the evaluation of the progress made by the charter school in achieving its educational goals and objectives. (NRS 386.610) **Section 7** of this bill requires an annual report to be made by the Department for each charter school sponsored by the State Board.

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

Section 1. NRS 385.315 is hereby amended to read as follows:

385.315 In addition to his other duties, the Deputy Superintendent for Administrative and Fiscal Services, under the direction of the Superintendent of Public Instruction, shall:

1. Investigate any claim against any school fund or ~~[~~separate~~]~~ ***an*** account established under NRS 354.603 ***, 386.570 or 392A.083, as applicable,*** whenever a written protest against the drawing of a warrant, check or order in payment of the claim is filed with the county auditor ~~[.]~~ ***, the sponsor of the charter school or the Department.*** If, upon investigation, the Deputy Superintendent finds that any such claim is unearned, illegal or unreasonably excessive, he shall notify the county auditor and the clerk of the board of trustees ***, the governing body of the charter school or the governing body of the university school for profoundly gifted pupils*** who drew ***or authorized*** the order for the claim, stating the reasons in writing why the order is unearned, illegal or excessive. If so notified, the county auditor shall not draw his warrant in payment of the claim nor shall the board of trustees ***, governing body of the charter school or governing body of the university school for profoundly gifted pupils*** draw a check or order in payment of the claim from ~~[~~a separate~~]~~ ***an*** account established under NRS 354.603 ~~[.]~~ ***, 386.570 or 392A.083, as applicable.*** If the Deputy Superintendent finds that any protested claim is legal and actually due the claimant, he shall authorize the county auditor ***,*** ~~[~~or~~]~~ the board of trustees ***, the governing body of the charter school or the governing body of the university school for profoundly gifted pupils, as applicable,*** to draw his warrant or its check or order on an account established under NRS 354.603 ***, 386.570 or 392A.083, as applicable,*** for the claim, and the county auditor ***,*** ~~[~~or~~]~~ the board of trustees ***or the appropriate governing body*** shall immediately draw his warrant or its check or order in payment of the claim.

2. Inspect the record books and accounts of boards of trustees, ***governing bodies of charter schools and governing bodies of university schools for profoundly gifted pupils*** and enforce the uniform method of keeping the financial records and accounts of school districts ~~[.]~~ ***, charter schools and university schools for profoundly gifted pupils.***

3. Inspect the school fund accounts of the county auditors of the several counties ~~[,]~~ and report the condition of the funds of any school district to the board of trustees thereof.

4. Inspect the ~~[separate]~~ accounts established by ***:***

(a) The boards of trustees under NRS 354.603 ~~[,]~~ and report the condition of the accounts to the respective boards of county commissioners and county treasurers.

(b) The governing bodies of charter schools under NRS 386.570 and report the condition of the accounts to the respective sponsors of the charter schools and governing bodies of the charter schools.

(c) The governing bodies of university schools for profoundly gifted pupils under NRS 392A.083 and report the condition of the accounts to the Board of Regents of the University of Nevada and the respective governing bodies of the university schools.

Sec. 2. NRS 386.536 is hereby amended to read as follows:

386.536 1. Except as otherwise provided in ~~[subsection 2,]~~ ***subsections 2 and 3,*** if a charter school ceases to operate voluntarily or upon revocation of its written charter, the governing body of the charter school shall appoint an administrator of the charter school ***, subject to the approval of the sponsor of the charter school,*** to act as a trustee during the process of the closure of the charter school and for 1 year after the date of closure. The administrator shall assume the responsibility for the records of the:

(a) Charter school;

(b) Employees of the charter school; and

(c) Pupils enrolled in the charter school.

2. If an administrator for the charter school is no longer available to carry out the duties set forth in subsection 1, the governing body of the charter school shall appoint a qualified person to assume those duties.

3. ***If the governing body of the charter school ceases to exist or is otherwise unable to appoint an administrator pursuant to subsection 1 or a qualified person pursuant to subsection 2, the sponsor of the charter school shall appoint an administrator or a qualified person to carry out the duties set forth in subsection 1.***

4. The governing body of the charter school ***or the sponsor of the charter school*** may, to the extent practicable, provide financial compensation to the administrator or person appointed ~~[pursuant to subsection 2]~~ to carry out the provisions of this section. ***If the sponsor of the charter school provides such financial compensation, the sponsor is entitled to receive reimbursement from the charter school for the costs incurred by the sponsor in providing the financial compensation. Such reimbursement must not exceed costs incurred for a period longer than 6 months.***

Sec. 3. 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 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, 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 one time every 3 years. The sponsor of the charter school and the Department shall not request a performance audit of the charter school more frequently than every 3 years without ~~[showing good cause for such a request.]~~ ***reasonable evidence of noncompliance*** ~~*[concerning the educational progress]*~~ ***in achieving the educational goals and objectives of the charter school based upon the annual report submitted to the State Board pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or if reasonable evidence of noncompliance*** ~~*[concerning the educational progress]*~~ ***in achieving the educational goals and objectives of the charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit. Such a charter school:***

(a) May, after undergoing the annual performance audit, reapply to the sponsor to determine whether the charter school satisfies the requirements of subsection 1.

(b) Is not eligible for any available money pursuant to subsection 1 until the sponsor determines that the charter school satisfies the requirements of that subsection.

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. 4. NRS 386.560 is hereby amended to read as follows:

386.560 1. The governing body of a charter school may contract with the board of trustees of the school district in which the charter school is located or the Nevada System of Higher Education for the provision of facilities to operate the charter school or to perform any service relating to the operation of the charter school, including, without limitation,

transportation, the provision of health services for the pupils who are enrolled in the charter school and the provision of school police officers.

2. A charter school may use any public facility located within the school district in which the charter school is located. A charter school may use school buildings owned by the school district only upon approval of the board of trustees of the school district and during times that are not regular school hours.

3. The board of trustees of a school district may donate surplus personal property of the school district to a charter school that is located within the school district.

4. Except as otherwise provided in this subsection, upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the ~~[charter school is located]~~ ***pupil resides*** shall authorize the pupil to participate in a class that is not available to the pupil at the charter school or participate in an extracurricular activity, excluding sports, at a public school within the school district if:

(a) Space for the pupil in the class or extracurricular activity is available; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate in the class or extracurricular activity.

➥ If the board of trustees of a school district authorizes a pupil to participate in a class or extracurricular activity, excluding sports, pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to attend the class or activity. The provisions of this subsection do not apply to a pupil who is enrolled in a charter school and who desires to participate on a part-time basis in a program of distance education provided by the board of trustees of a school district pursuant to NRS 388.820 to 388.874, inclusive. Such a pupil must comply with NRS 388.858.

5. Upon the request of a parent or legal guardian of a pupil who is enrolled in a charter school, the board of trustees of the school district in which the ~~[charter school is located]~~ ***pupil resides*** shall authorize the pupil to participate in sports at the public school that he would otherwise be required to attend within the school district, or upon approval of the board of trustees, any public school within the same zone of attendance as the charter school if:

(a) Space is available for the pupil to participate; and

(b) The parent or legal guardian demonstrates to the satisfaction of the board of trustees that the pupil is qualified to participate.

➥ If the board of trustees of a school district authorizes a pupil to participate in sports pursuant to this subsection, the board of trustees is not required to provide transportation for the pupil to participate.

6. The board of trustees of a school district may revoke its approval for a pupil to participate in a class, extracurricular activity or sports at a public school pursuant to subsections 4 and 5 if the board of trustees or the public school determines that the pupil has failed to comply with applicable statutes,

or applicable rules and regulations of the board of trustees, the public school or the Nevada Interscholastic Activities Association. If the board of trustees so revokes its approval, neither the board of trustees nor the public school is liable for any damages relating to the denial of services to the pupil.

Sec. 5. 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 ***an account with*** 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]~~ ***each*** school ~~[year,]~~ ***quarter,*** 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]~~ ***quarter*** if the sponsor provided administrative services during that school ~~[year.]~~ ***quarter.*** The request must include an itemized list of those costs. ~~[Upon]~~ ***Unless a delay is granted pursuant to subsection 9, 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 the charter school. If a governing body fails to pay the reimbursement ~~[,]~~ ***pursuant to this subsection or pursuant to a plan approved by the Superintendent of Public Instruction in accordance with subsection 9,*** 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 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 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

(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 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

4. 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 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

(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 ~~[.]~~ ***, as adjusted by the final computation of apportionment pursuant to subsection 4 of NRS 387.1243.***

5. 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. 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. 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 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. 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.

9. The governing body of a charter school may submit to the Superintendent of Public Instruction a written request to delay a quarterly payment of a reimbursement for the administrative costs that a charter school owes pursuant to this section. The written request must be in the form prescribed by the Superintendent and must include, without limitation, documentation that a financial hardship exists for the charter school and a plan for the payment of the reimbursement. The Superintendent may approve or deny the request and shall notify the governing body and the sponsor of the charter school of the approval or denial of the request.

Sec. 6. NRS 386.600 is hereby amended to read as follows:

386.600 1. On or before November 15 of each year, the governing body of each charter school shall submit to the sponsor of the charter school, the Superintendent of Public Instruction and the Director of the Legislative Counsel Bureau for transmission to the Majority Leader of the Senate and the Speaker of the Assembly a report that includes:

(a) A written description of the progress of the charter school in achieving the mission and goals of the charter school set forth in its application.

(b) ~~[~~For each licensed employee and nonlicensed teacher employed by the charter school on October 1 of that year:

~~(1) The amount of salary of the employee; and~~

~~(2) The designated assignment, as that term is defined by the Department, of the employee.~~

~~(c)]~~ For each fund maintained by the charter school, including, without limitation, the general fund of the charter school and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the governing body in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the final budget of the charter school, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.

~~[~~(d) The count of pupils who are enrolled in a charter school in:

~~(1) Kindergarten;~~

~~(2) Grades 1 to 12, inclusive; and~~

~~(3) Special education pursuant to NRS 388.440 to 388.520, inclusive.~~

~~(e)~~ ***(c)*** The actual expenditures of the charter school in the fiscal year immediately preceding the report.

~~[(f)]~~ ***(d)*** The proposed expenditures of the charter school for the current fiscal year.

~~[(g)]~~ ***(e)*** The salary schedule for licensed employees and nonlicensed teachers in the current school year and a statement of whether salary negotiations for the current school year have been completed. If salary negotiations have not been completed at the time the salary schedule is submitted, the governing body shall submit a supplemental report to the Superintendent of Public Instruction upon completion of negotiations.

~~[(h)]~~ ***(f)*** The number of employees eligible for health insurance within the charter school for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

~~[(i)]~~ ***(g)*** The rates for fringe benefits, excluding health insurance, paid by the charter school for its licensed employees in the preceding and current fiscal years.

~~[(j)]~~ ***(h)*** The amount paid for extra duties, supervision of extracurricular activities and supplemental pay ~~[,]~~ and the number of employees receiving that pay in the preceding and current fiscal years.

2. On or before November 25 of each year, the Superintendent of Public Instruction shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each governing body pursuant to subsection 1.

3. The Superintendent of Public Instruction shall, in the compilation required by subsection 2, reconcile the revenues and expenditures of the charter schools with the apportionment received by those schools from the State Distributive School Account for the preceding year.

Sec. 7. NRS 386.610 is hereby amended to read as follows:

386.610 1. On or before August 15 of each year, if the ***State Board,*** board of trustees of a school district or a college or university within the Nevada System of Higher Education sponsors a charter school, the ***Department, the*** board of trustees or the institution, as applicable, shall submit a written report to the State Board. The written report must include:

(a) An evaluation of the progress of each charter school sponsored by the ***State Board, the*** board of trustees or ***the*** institution, as applicable, in achieving its educational goals and objectives.

(b) A description of all administrative support and services provided by the ***Department, the*** school district or ***the*** 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, the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

Sec. 8. NRS 387.206 is hereby amended to read as follows:

387.206 1. On or before July 1 of each year, the Department, in consultation with the Budget Division of the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, shall develop or revise, as applicable, a formula ***for each school district and a formula for each charter school*** for determining the minimum amount of money that each school district ***and each charter school*** is required to expend each fiscal year for textbooks, instructional supplies and instructional hardware. The formula must be used only to develop expenditure requirements and must not be used to alter the distribution of money for basic support to school districts ~~[.]~~ ***and charter schools.***

2. Upon approval of the formula pursuant to subsection 1, the Department shall provide written notice to each school district ***and each charter school*** within the first 30 days of each fiscal year that sets forth the required minimum combined amount of money that the school district ***or charter school*** must expend for textbooks, instructional supplies and instructional hardware for that fiscal year.

3. On or before January 1 of each year, the Department shall determine whether each school district ***and each charter school*** has expended, during the immediately preceding fiscal year, the required minimum amount of money set forth in the notice provided pursuant to subsection 2. In making this determination, the Department shall use the report submitted by the school district pursuant to NRS 387.303 ~~[.]~~ ***and the charter school pursuant to NRS 386.600.***

4. Except as otherwise provided in subsection 5, if the Department determines that a school district ***or charter school*** has not expended the required minimum amount of money set forth in the notice provided pursuant to subsection 2, a reduction must be made from the basic support allocation otherwise payable to that school district ***or charter school*** in an amount that is equal to the difference between the actual combined expenditure for textbooks, instructional supplies and instructional hardware and the minimum required combined expenditure set forth in the notice provided pursuant to subsection 2. A reduction in the amount of the basic support allocation pursuant to this subsection:

(a) Does not reduce the amount that the school district ***or charter school*** is required to expend on textbooks, instructional supplies and instructional hardware in the current fiscal year; and

(b) Must not exceed the amount of basic support that was provided to the school district ***or charter school*** for the fiscal year in which the minimum expenditure amount was not satisfied.

5. If the actual enrollment of pupils in a school district is less than the enrollment included in the projections used in the school district's biennial budget submitted pursuant to NRS 387.303, the required expenditure for

textbooks, instructional supplies and instructional hardware pursuant to this section must be reduced proportionately.

6. If the actual enrollment of pupils in a charter school is less than the enrollment included in the projections used in the charter school's final budget required pursuant to NRS 386.550, the required expenditure for textbooks, instructional supplies and instructional hardware pursuant to this section must be reduced proportionately.

Sec. 9. NRS 387.303 is hereby amended to read as follows:

387.303 1. Not later than November 10 of each year, the board of trustees of each school district shall submit to the Superintendent of Public Instruction and the Department of Taxation a report which includes the following information:

(a) For each fund within the school district, including, without limitation, the school district's general fund and any special revenue fund which receives state money, the total number and salaries of licensed and nonlicensed persons whose salaries are paid from the fund and who are employed by the school district in full-time positions or in part-time positions added together to represent full-time positions. Information must be provided for the current school year based upon the school district's final budget, including any amendments and augmentations thereto, and for the preceding school year. An employee must be categorized as filling an instructional, administrative, instructional support or other position.

(b) ~~[The count of pupils computed pursuant to paragraph (a) of subsection 1 of NRS 387.1233.~~

~~(c)]~~ The school district's actual expenditures in the fiscal year immediately preceding the report.

~~[(d)]~~ ***(c)*** The school district's proposed expenditures for the current fiscal year.

~~[(e)]~~ ***(d)*** The schedule of salaries for licensed employees in the current school year and a statement of whether the negotiations regarding salaries for the current school year have been completed. If the negotiations have not been completed at the time the schedule of salaries is submitted, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction upon completion of negotiations or the determination of an arbitrator concerning the negotiations that includes the schedule of salaries agreed to or required by the arbitrator.

~~[(f)]~~ ***(e)*** The number of employees who received an increase in salary pursuant to subsection 2, 3 or 4 of NRS 391.160 for the current and preceding fiscal years. If the board of trustees is required to pay an increase in salary retroactively pursuant to subsection 2 of NRS 391.160, the board of trustees shall submit a supplemental report to the Superintendent of Public Instruction not later than February 15 of the year in which the retroactive payment was made that includes the number of teachers to whom an increase in salary was paid retroactively.

~~[(g)]~~ ***(f)*** The number of employees eligible for health insurance within the school district for the current and preceding fiscal years and the amount paid for health insurance for each such employee during those years.

~~[(h)]~~ ***(g)*** The rates for fringe benefits, excluding health insurance, paid by the school district for its licensed employees in the preceding and current fiscal years.

~~[(i)]~~ ***(h)*** The amount paid for extra duties, supervision of extracurricular activities and supplemental pay and the number of employees receiving that pay in the preceding and current fiscal years.

~~[(j)]~~ ***(i)*** The expenditures from the account created pursuant to subsection ~~[3]~~ ***4*** of NRS 179.1187. The report must indicate the total amount received by the district in the preceding fiscal year ~~[,]~~ and the specific amount spent on books and computer hardware and software for each grade level in the district.

2. On or before November 25 of each year, the Superintendent of Public Instruction shall submit to the Department of Administration and the Fiscal Analysis Division of the Legislative Counsel Bureau, in a format approved by the Director of the Department of Administration, a compilation of the reports made by each school district pursuant to subsection 1.

3. In preparing the agency biennial budget request for the State Distributive School Account for submission to the Department of Administration, the Superintendent of Public Instruction:

(a) Shall compile the information from the most recent compilation of reports submitted pursuant to subsection 2;

(b) May increase the line items of expenditures or revenues based on merit salary increases and cost of living adjustments or inflation, as deemed credible and reliable based upon published indexes and research relevant to the specific line item of expenditure or revenue;

(c) May adjust expenditures and revenues pursuant to paragraph (b) for any year remaining before the biennium for which the budget is being prepared and for the 2 years of the biennium covered by the biennial budget request to project the cost of expenditures or the receipt of revenues for the specific line items;

(d) May consider the cost of enhancements to existing programs or the projected cost of proposed new educational programs, regardless of whether those enhancements or new programs are included in the per pupil basic support guarantee for inclusion in the biennial budget request to the Department of Administration; and

(e) Shall obtain approval from the State Board for any inflationary increase, enhancement to an existing program or addition of a new program included in the agency biennial budget request.

4. The Superintendent of Public Instruction shall, in the compilation required by subsection 2, reconcile the revenues of the school districts with the apportionment received by those districts from the State Distributive School Account for the preceding year.

5. The request prepared pursuant to subsection 3 must:

(a) Be presented by the Superintendent of Public Instruction to such standing committees of the Legislature as requested by the standing committees for the purposes of developing educational programs and providing appropriations for those programs; and

(b) Provide for a direct comparison of appropriations to the proposed budget of the Governor submitted pursuant to subsection 4 of NRS 353.230.

Sec. 10. NRS 392A.083 is hereby amended to read as follows:

392A.083 1. Each pupil who is enrolled in a university school for profoundly gifted pupils, including, without limitation, a pupil who is enrolled in a program of special education in a university school for profoundly gifted pupils, must be included in the count of pupils in the school district in which the school is located 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 school attendance pursuant to NRS 392.070.

2. A university school for profoundly gifted pupils 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.

3. If a university school for profoundly gifted pupils receives money for special education program units directly from this State, the amount of money
for special education that the school district pays to the university school for profoundly gifted pupils may be reduced proportionately by the amount of money the university school received from this State for that purpose.

4. All money received by a university school for profoundly gifted pupils from this State or from the board of trustees of a school district must be deposited in ***an account with*** a bank, credit union or other financial institution in this State.

5. The governing body of a university school for profoundly gifted pupils may negotiate with the board of trustees of the school district in which the school is located or the State Board for additional money to pay for services that the governing body wishes to offer.

6. To determine the amount of money for distribution to a university school for profoundly gifted pupils in its first year of operation in which state funding is provided, the count of pupils who are enrolled in the university school must initially be determined 30 days before the beginning of the school year of the school district in which the university school is located, based upon the number of pupils whose applications for enrollment have been approved by the university school. The count of pupils who are enrolled in a university school for profoundly gifted pupils must be revised on the last day of the first school month of the school district in which the university school is located for the school year, based upon the actual number of pupils who are enrolled in the university school.

7. Pursuant to subsection 6 of NRS 387.124, the governing body of a university school for profoundly gifted pupils may request that the apportionments made to the university school in its first year of operation be paid to the university school 30 days before the apportionments are otherwise required to be made.

8. If a university school for profoundly gifted pupils ceases to operate pursuant to this chapter during a school year, the remaining apportionments that would have been made to the university school pursuant to NRS 387.124 for that school year must be paid on a proportionate basis to the school districts where the pupils who were enrolled in the university school reside.

9. If the governing body of a university school for profoundly gifted pupils uses money received from this State to purchase real property, buildings, equipment or facilities, the governing body of the university school shall assign a security interest in the property, buildings, equipment and facilities to the State of Nevada.

Sec. 11. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 100.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 154.

The following Senate amendment was read:

Amendment No. 630.

AN ACT relating to education; revising provisions governing the establishment by the board of trustees of a school district of a policy prohibiting criminal gang activity on school property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the boards of trustees of school districts to establish policies prohibiting the activities of criminal gangs on school property. (NRS 392.4635) This bill makes the establishment of that policy mandatory. ~~[and requires the policy to include the provision of training for the prevention of criminal gang activity.]~~

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

Section 1. NRS 392.4635 is hereby amended to read as follows:

392.4635 1. The board of trustees of each school district ~~[may]~~ ***shall*** establish a policy that prohibits the activities of criminal gangs on school property.

2. The policy established pursuant to subsection 1 ~~*[must]*~~ ***may include*** ~~*[:]*~~ ***, without limitation:***

(a) The provision of training for the prevention of the activities of criminal gangs on school property.

(b) If the policy includes training:

(1) A designation of the grade levels of the pupils who must receive the training.

~~*[(c)]*~~ ***(2) A designation of the personnel who must receive the training, including, without limitation, personnel who are employed in schools at the grade levels designated pursuant to*** ~~*[paragraph (b).]*~~ ***subparagraph (1).***

➥ The board of trustees of each school district shall ensure that the training is provided to the pupils and personnel designated in the policy.

~~*[3. The policy established pursuant to subsection 1 may]*~~

(c) Provisions which prohibit: ~~*[include, without limitation, provisions which:*~~

~~*(a) Prohibit:]*~~

(1) A pupil from wearing any clothing or carrying any symbol on school property that denotes membership in or an affiliation with a criminal gang; and

~~[(b)]~~ ***(2)*** Any activity that encourages participation in a criminal gang or facilitates illegal acts of a criminal gang.

~~[2. Each policy that prohibits the activities of criminal gangs on school property may]~~

(d) Provisions which provide

~~*[(b) Provide]*~~ for the suspension or expulsion of pupils who violate the policy.

3. ***The board of trustees of each school district may develop the policy required pursuant to subsection 1 in consultation with:***

(a) Local law enforcement agencies;

(b) School police officers, if any;

(c) Persons who have experience regarding the actions and activities of criminal gangs;

(d) Organizations which are dedicated to alleviating criminal gangs or assisting members of criminal gangs who wish to disassociate from the gang; and

(e) Any other person deemed necessary by the board of trustees.

4. As used in this section, "criminal gang" has the meaning ascribed to it in NRS 213.1263.

Sec. 2. **1. On or before June 30, 2010, the board of trustees of each school district shall submit to the Legislative Committee on Education a report concerning the policy that prohibits the activities of criminal gangs on school property established pursuant to NRS 392.4635, as amended by section 1 of this act.**

2. The report must include, without limitation:

(a) A copy of the policy adopted by the board of trustees of the school district; and

(b) A summary of the activities of the board of trustees to ensure that the policy is carried out.

~~[Sec. 2.]~~ ***Sec. 3.*** This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 154.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 191.

The following Senate amendment was read:

Amendment No. 629.

AN ACT relating to education; revising provisions governing examinations of the height and weight of pupils enrolled in public schools; ~~[removing]~~ **extending** the prospective expiration of the requirement that those examinations be conducted; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires each school to conduct physical examinations of pupils in certain grades to determine if a child has scoliosis, a visual or auditory problem or a gross physical defect, and to conduct examinations of the height and weight of a representative sample of pupils in certain grades. (NRS 392.420) The requirement for examinations of the height and weight of a representative sample of pupils in certain grades is scheduled to expire on June 30, 2010. (Chapter 414, Statutes of Nevada 2007, p. 1873) **Section 2** of this bill ~~[removes]~~ **extends** the prospective expiration of the requirement that each school conduct examinations of the height and weight of a representative sample of pupils ~~[.]~~ **to June 30, 2015.** **Section 1** of this bill revises the grades in which the examinations of the height and weight of a representative sample of pupils are conducted to require each school district to conduct and report on the examinations for grades 4, 7 and 10 and authorizes a school district to conduct the examinations in other grade levels. (NRS 392.420)

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

Section 1. NRS 392.420 is hereby amended to read as follows:

392.420 1. In each school at which he is responsible for providing nursing services, a school nurse shall plan for and carry out, or supervise qualified health personnel in carrying out, a separate and careful observation and examination of every child who is regularly enrolled in a grade specified by the board of trustees or superintendent of schools of the school district in accordance with this subsection to determine whether the child has scoliosis, any visual or auditory problem, or any gross physical defect. The grades in which the observations and examinations must be carried out are as follows:

(a) For visual and auditory problems:

(1) Before the completion of the first year of initial enrollment in elementary school;

(2) In at least one additional grade of the elementary schools; and

(3) In one grade of the middle or junior high schools and one grade of the high schools; and

(b) For scoliosis, in at least one grade of schools below the high schools.

➥ Any person other than a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, who performs an observation or examination pursuant to this subsection must be trained by a school nurse to conduct the observation or examination.

2. In addition to the requirements of subsection 1, each school district shall conduct examinations of ***the*** height and weight of a representative sample of pupils ***enrolled*** in ~~[at least one grade of the:~~

~~(a) Elementary schools within the school district;~~

~~(b) Middle schools or junior high schools within the school district; and~~

~~(c) High schools~~**]** ***grades 4, 7 and 10 in the schools*** within the school district. ***In addition to those grade levels, a school district may conduct examinations of the height and weight of a representative sample of pupils enrolled in other grade levels within the school district.***

➥ The Health Division of the Department of Health and Human Services shall define "representative sample" in collaboration with the school districts for purposes of this subsection.

3. If any child is attending school in a grade above one of the specified grades and has not previously received such an observation and examination, he must be included in the current schedule for observation and examination. Any child who is newly enrolled in the district must be examined for any medical condition for which children in a lower grade are examined.

4. A special examination for a possible visual or auditory problem must be provided for any child who:

(a) Is enrolled in a special program;

(b) Is repeating a grade;

(c) Has failed an examination for a visual or auditory problem during the previous school year; or

(d) Shows in any other way that he may have such a problem.

5. The school authorities shall notify the parent or guardian of any child who is found or believed to have scoliosis, any visual or auditory problem, or any gross physical defect, and shall recommend that appropriate medical attention be secured to correct it.

6. In any school district in which state, county or district public health services are available or conveniently obtainable, those services may be used to meet the responsibilities assigned under the provisions of this section. The board of trustees of the school district may employ qualified personnel to

perform them. Any nursing services provided by such qualified personnel must be performed in compliance with chapter 632 of NRS.

7. The board of trustees of a school district may adopt a policy which encourages the school district and schools within the school district to collaborate with:

(a) Qualified health care providers within the community to perform, or assist in the performance of, the services required by this section; and

(b) Postsecondary educational institutions for qualified students enrolled in such an institution in a health-related program to perform, or assist in the performance of, the services required by this section.

8. The school authorities shall provide notice to the parent or guardian of a child before performing on the child the examinations required by this section. The notice must inform the parent or guardian of the right to exempt the child from all or part of the examinations. Any child must be exempted from an examination if his parent or guardian files with the teacher a written statement objecting to the examination.

9. **[**~~Each~~**]** ***Except as otherwise provided in this subsection, each*** school nurse or a designee of a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, shall report the results of the examinations conducted pursuant to this section in each school at which he is responsible for providing services to the State Health Officer in the format prescribed by the State Health Officer. ***If a school district conducts examinations of the height and weight of a representative sample of pupils enrolled in grade levels other than the grade levels required by subsection 2, the results of those examinations must not be included in the report submitted to the State Health Officer.*** Each such report must exclude any identifying information relating to a particular child. The State Health Officer shall compile all such information he receives to monitor the health status of children and shall retain the information.

Sec. 2. Section 5 of chapter 414, Statutes of Nevada 2007, at page 1873, is hereby amended to read as follows:

Sec. 5. 1. This section and sections 1 and 4 of this act become effective on July 1, 2007.

2. Section 1 of this act expires by limitation on June 30, **[**~~2010.~~**]** **2015.**

3. Section 2 of this act becomes effective on July 1, **[**~~2010.~~**]** **2015.**

Sec. 3. **[**~~Section 2 of chapter 414, Statutes of Nevada 2007, at page 1872, is hereby repealed.~~**]** **(Deleted by amendment.)**

Sec. 4. The Legislative Committee on Health Care shall, during the 2009-2010 interim, examine issues related to the weight and health of children, including, without limitation, any information reported to the State Health Officer pursuant to NRS 392.420, as amended by section 1 of this act. The Committee may identify programs, practices and studies to address the needs of children in this State related to maintaining a healthy weight.

Sec. 5. 1. This act becomes effective ~~[upon passage and approval.]~~ **on July 1, 2009.**

2. Section 1 of this act expires by limitation on June 30, 2015.

~~[~~

~~TEXT OF REPEALED SECTION~~

~~Section 2 of chapter 414, Statutes of Nevada 2007, at page 1872:~~

~~Sec. 2. NRS 392.420 is hereby amended to read as follows:~~

~~392.420 1. In each school at which he is responsible for providing nursing services, a school nurse shall plan for and carry out, or supervise qualified health personnel in carrying out, a separate and careful observation and examination of every child who is regularly enrolled in a grade specified by the board of trustees or superintendent of schools of the school district in accordance with this subsection to determine whether the child has scoliosis, any visual or auditory problem, or any gross physical defect. The grades in which the observations and examinations must be carried out are as follows:~~

~~(a) For visual and auditory problems:~~

~~(1) Before the completion of the first year of initial enrollment in elementary school;~~

~~(2) In at least one additional grade of the elementary schools; and~~

~~(3) In one grade of the middle or junior high schools and one grade of the high schools; and~~

~~(b) For scoliosis, in at least one grade of schools below the high schools.~~

~~→ Any person other than a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, who performs an observation or examination pursuant to this subsection must be trained by a school nurse to conduct the observation or examination.~~

~~2. [In addition to the requirements of subsection 1, each school district shall conduct examinations of height and weight of a representative sample of pupils in at least one grade of the:~~

~~(a) Elementary schools within the school district;~~

~~(b) Middle schools or junior high schools within the school district; and~~

~~(c) High schools within the school district,~~

~~→ The Health Division of the Department of Health and Human Services shall define "representative sample" in collaboration with the school districts for purposes of this subsection.~~

~~3.] If any child is attending school in a grade above one of the specified grades and has not previously received such an observation and examination, he must be included in the current schedule for observation and examination. Any child who is newly enrolled in the district must be examined for any medical condition for which children in a lower grade are examined.~~

~~[4.] 3. A special examination for a possible visual or auditory problem must be provided for any child who:~~

~~(a) Is enrolled in a special program;~~

~~(b) Is repeating a grade;~~

~~(c) Has failed an examination for a visual or auditory problem during the previous school year; or~~

~~(d) Shows in any other way that he may have such a problem.~~

~~[5.] 4. The school authorities shall notify the parent or guardian of any child who is found or believed to have scoliosis, any visual or auditory problem, or any gross physical defect, and shall recommend that appropriate medical attention be secured to correct it.~~

~~[6.] 5. In any school district in which state, county or district public health services are available or conveniently obtainable, those services may be used to meet the responsibilities assigned under the provisions of this section. The board of trustees of the school district may employ qualified personnel to perform them. Any nursing services provided by such qualified personnel must be performed in compliance with chapter 632 of NRS.~~

~~[7.] 6. The board of trustees of a school district may adopt a policy which encourages the school district and schools within the school district to collaborate with:~~

~~(a) Qualified health care providers within the community to perform, or assist in the performance of, the services required by this section; and~~

~~(b) Postsecondary educational institutions for qualified students enrolled in such an institution in a health-related program to perform, or assist in the performance of, the services required by this section.~~

~~[8.] 7. The school authorities shall provide notice to the parent or guardian of a child before performing on the child the examinations required by this section. The notice must inform the parent or guardian of the right to exempt the child from all or part of the examinations. Any child must be exempted from an examination if his parent or guardian files with the teacher a written statement objecting to the examination.~~

~~[9.] 8. Each school nurse or a designee of a school nurse, including, without limitation, a person employed at a school to provide basic first aid and health services to pupils, shall report the results of the examinations conducted pursuant to this section in each school at which he is responsible for providing services to the State Health Officer in the format prescribed by the State Health Officer. Each such report must exclude any identifying information relating to a particular child. The State Health Officer shall compile all such information he receives to monitor the health status of children and shall retain the information.]~~

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 191.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 348.

The following Senate amendment was read:

Amendment No. 627.

SUMMARY—Requires public schools to post a notice of certain information concerning educational programs and services available within the **public schools and the** school district. (BDR 34-621)

AN ACT relating to education; requiring each public school to post a notice of information concerning certain courses, services and programs available to pupils enrolled in the **public school and the** school district; requiring that the notice be made available to the parents and legal guardians of those pupils; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires the board of trustees of each school district to prepare a notice of information identifying all the advanced placement courses, honors courses, international baccalaureate courses, special education services, **gifted and talented programs,** charter school programs and any other educational programs available to pupils enrolled in the school district, including where those courses, services and programs are offered. Each public school within the school district is required to post a notice in a conspicuous place at the school indicating the **availability of courses, services and programs in the public school and indicating the** availability and location of a complete list of the courses, services and programs identified by the school district and make ~~[that notice]~~ **such notices** available to the parents and legal guardians of pupils enrolled in the school.

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

Section 1. Chapter 392 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district shall prepare a written notice which identifies all the advanced placement courses, honors courses, international baccalaureate courses, special education services , gifted and talented programs and any other educational programs available to pupils enrolled in the school district , including, without limitation, to the extent information is available, programs offered by charter schools within the school district, which will assist in the advancement of the education of those pupils. The notice must:

(a) Specify where those courses, services and programs are available within the school district;

(b) Identify the grade level of pupils for which those courses, services and programs are available; and

(c) Be posted on the Internet website maintained by the school district.

2. Each public school shall:

(a) Prepare a written notice which identifies the courses, services and programs identified pursuant to subsection 1 that are available at that public school;

(b) Post in one or more conspicuous places at the school a notice indicating the availability and location of a complete list of the courses, services and programs :

(1) Available within the school district, as identified pursuant to subsection 1; and

(2) Available at that public school, as identified pursuant to paragraph (a); and

~~[(b)]~~ ***(c) Ensure that the*** ~~[notice]~~ ***notices prepared pursuant to*** ~~[subsection 1 is]~~ ***this section are made available to the parents and legal guardians of pupils enrolled in the school*** ~~[at]~~ **:**

(1) At the beginning of each school year or upon a pupil's enrollment in public school, as applicable ~~[.]~~ ***, including, without limitation, at meetings of parent organizations at the school and by distribution with other information that is sent home with pupils.***

(2) At parent-teacher conferences.

3. The notices prepared pursuant to subsection 1 and paragraph (a) of subsection 2 must be made available in such languages as the board of trustees of the school district deems necessary.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 348.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 204.

The following Senate amendment was read:

Amendment No. 643.

AN ACT relating to common-interest communities; requiring the executive board of a unit owners' association of a common-interest community to make available to each unit's owner certain information concerning the association's collection policy; extending the period of time certain liens have priority over ~~[other]~~ certain **other** security interests; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, not less than 30 days or more than 60 days before the beginning of the fiscal year of a unit owners' association of a common-interest community, the executive board of the association must provide each unit's owner with certain information pertaining to the budget of the association. (NRS 116.31151) **Section 1** of this bill requires the

executive board to also make available to each unit's owner information pertaining to a policy established by the association for the collection of any fees, fines, assessments or costs imposed against a unit's owner, including the unit's owner's responsibility to pay such fees, fines, assessments or costs and the rights of the association to recover the fees, fines, assessments or costs if the unit's owner does not pay them.

Under existing law, a unit-owners' association of a common-interest community has priority over certain other creditors with respect to a lien on a unit for any construction penalty imposed against the unit's owner, any assessment levied against the unit or certain fines imposed against the unit's owner. Such a lien is also prior to a first security interest on the unit recorded before the assessments became delinquent to the extent of the assessments for common expenses based on the periodic budget adopted by the association which would have become due in the absence of acceleration during the 6 months preceding an action to enforce the lien. **(NRS 116.3116) Section 2** of this bill changes the 6-month threshold for super priority of a lien for an association to ~~[2 years, if the unit is a single-family detached dwelling. (NRS 116.3116)]~~ **9 months, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If such federal regulations require a shorter period, the period must be determined in accordance with the federal regulations, except that the period must not be less than the 6 months preceding an action to enforce the lien, as currently provided in existing law.**

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

Section 1. 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 budget for the daily operation of the association. The budget must include, without limitation, the estimated annual revenue and expenditures of the association and any contributions to be made to the reserve account of the association.

(b) 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 of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, 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; and

(b) Copies of the budgets 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. 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.

4. The executive board shall, at the same time and in the same manner that the executive board makes the budget available to a unit's owner pursuant to this section, make available to each unit's owner the policy established for the association concerning the collection of any fees, fines, assessments or costs imposed against a unit's owner pursuant to this chapter. The policy must include, without limitation:

(a) The responsibility of the unit's owner to pay any such fees, fines, assessments or costs in a timely manner; and

(b) The association's rights concerning the collection of such fees, fines, assessments or costs if the unit's owner fails to pay the fees, fines, assessments or costs in a timely manner.

Sec. 2. 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 ~~*[2 years immediately preceding institution of an action to enforce the lien if the unit is a single-family detached dwelling or during the*~~ 6~~*]*~~ ***9*** months immediately preceding institution of an action to enforce the lien ~~**[.]**~~ ~~*[if the unit is any other type of dwelling.]*~~ ***, unless federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien. If federal regulations adopted by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association require a shorter period of priority for the lien, the period during which the lien is prior to all security interests described in paragraph (b) must be determined in accordance with those federal regulations, except that notwithstanding the provisions of the federal regulations, the period of priority for the lien must not be less than 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.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 204.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 233.

The following Senate amendment was read:

Amendment No. 642.

AN ACT relating to scrap metal; enacting various requirements for transactions involving scrap metal and for persons involved in such transactions; providing that a person who removes, damages or destroys certain property to obtain scrap metal is guilty of a crime; increasing the penalty for stealing scrap metal under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2 and 3 of this bill define the terms "scrap metal" and "scrap metal processor."

Section 4 of this bill requires purchasers of scrap metal to hold current business licenses from both the State and the appropriate city or county and to have authorization to operate from the appropriate solid waste management authority.

Section 5 of this bill requires scrap metal processors to maintain certain records of all purchases of scrap metal by the scrap metal processors.

Section 6 of this bill allows peace officers or investigators to place a hold on certain property in the possession of a scrap metal processor alleged to be related to criminal activity for a specified period during the investigation or prosecution.

Section 7 of this bill requires that payments for purchases of scrap metal with a value of $150 or more by a scrap metal processor must be made by certain means and that a receipt containing certain specified information must be provided to the seller of the scrap metal. **Section 7** also allows only a single cash transaction of less than $150 each day between a scrap metal processor and a seller.

Section 7.5 of this bill provides that a person who ~~[knowingly and willfully fails to comply with the provisions of sections 5, 6 and 7 is: (1) for a first or second offense within a period of 5 years,]~~ **violates any provision of section 5, 6 or 7 of this bill is** guilty of a misdemeanor **.** ~~[with varying terms of imprisonment and fines; and (2) for a third or subsequent offense within a period of 5 years, guilty of a category E felony.]~~

Section 9 of this bill excludes scrap metal from the definition of "junk" under chapter 647 of NRS. (NRS 647.015) **Section 11** of this bill expands the crime of receiving property stolen from certain utilities and political subdivisions of the State, a category D felony, to include transactions involving scrap metal. (NRS 647.145)

Section 10 of this bill provides that chapter 647 of NRS does not prevent counties from licensing, taxing and regulating dealers in junk or scrap metal. (NRS 647.080)

Section 12 of this bill provides that a person who willfully or maliciously removes, damages or destroys utility property, agricultural infrastructure, construction sites or certain other property to obtain scrap metal is guilty of a misdemeanor if the value of the removal or damage of property is less than $500 or a felony if the removal or damage is greater than $500 or interrupts a service provided by utility property.

Existing law generally provides that a person commits petit larceny and is guilty of a misdemeanor if he steals property with a value of less than $250. (NRS 205.240) Existing law also generally provides that a person commits grand larceny if he steals property with a value of $250 or more. (NRS 205.220) A person who commits grand larceny is guilty of a category C felony if the value of the property is less than $2,500 and is guilty of a category B felony if the value of the property is $2,500 or more. (NRS 205.222)

Section 13 of this bill: (1) provides that, if the value of the scrap metal stolen within a period of 90 days is less than $250, the person is guilty of a misdemeanor; (2) provides that, if the value of the scrap metal stolen within a period of 90 days is $250 or more, the person is guilty of a category C or B felony with varying terms of imprisonment and fines, depending upon the value of the scrap metal stolen within the 90-day period; (3) requires the court to order a person who steals scrap metal to pay restitution; and (4) provides that the cost of repairing or replacing property damaged by the theft of scrap metal must be included in the value of the property that was stolen.

Sections 17 and 19 of this bill amend existing law to apply certain provisions governing larceny to the new crime of larceny described in **section 13** of this bill involving scrap metal. (NRS 205.251, 205.980)

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

Section 1. Chapter 647 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7.5, inclusive, of this act.

Sec. 2. ***1. "Scrap metal" means:***

(a) Nonferrous metals, scrap iron, stainless steel or other material or equipment which consists in whole or in part of metal and which is used in construction, agricultural operations, electrical power generation, transmission or distribution, cable, broadband or telecommunications transmission, railroad equipment, oil well rigs or any lights maintained by the State or a local government, including, without limitation, street lights, traffic-control devices, park lights or ballpark lights; and

(b) Catalytic converters.

2. The term does not include waste generated by a household, aluminum beverage containers, used construction scrap iron or materials consisting of a metal product in its original manufactured form which contains not more than 20 percent by weight nonferrous metal.

Sec. 3. ***"Scrap metal processor" means any person who:***

1. Engages in the business of purchasing, trading, bartering or otherwise receiving scrap metal; or

2. Uses machinery and equipment for processing and manufacturing iron, steel or nonferrous scrap into prepared grades, and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap, not including precious metals, for sale for remelting purposes.

Sec. 4. ***A person shall not purchase scrap metal unless that person:***

1. Possesses both a valid business license issued by the State pursuant to NRS 360.780 and a valid business license from the city or county, as applicable, in which the person purchases scrap metal; and

2. Has obtained all required authorizations to operate from, or is otherwise registered with, the solid waste management authority for the area in which the person purchases scrap metal.

Sec. 5. ***1. Every scrap metal processor shall maintain in his place of business a book or other permanent record in which must be made, at the time of each purchase of scrap metal, a record of the purchase that contains:***

(a) The date of the purchase.

(b) The name or other identification of the person or employee conducting the transaction on behalf of the scrap metal processor.

(c) A copy of the seller's valid personal identification card or valid driver's license issued by a state or a copy of the seller's valid United States military identification card.

(d) The name, street, house number and date of birth listed on the identification provided pursuant to paragraph (c) and a physical description of the seller, including his gender, height, eye color and hair color.

(e) A photograph, video record or digital record of the seller.

(f) The fingerprint of the right index finger of the seller. If the seller's right index finger is not available, the scrap metal processor must obtain the fingerprint of one of the seller's remaining fingers and thumbs.

(g) The license number and general description of the vehicle delivering the scrap metal that is being purchased.

(h) A description of the scrap metal that is being purchased which is consistent with the standards published and commonly applied in the scrap metal industry.

(i) The price paid by the scrap metal processor for the scrap metal.

2. All records kept pursuant to subsection 1 must be legibly written in the English language, if applicable.

3. A scrap metal processor shall document each purchase of scrap metal with a photograph or video recording which must be retained on-site for not less than 60 days after the date of the purchase.

4. All scrap metal purchased by the scrap metal processor and the records created in accordance with subsection 1, including, but not limited to, any photographs or video recordings, must at all times during ordinary hours of business be open to the inspection of a prosecuting attorney or any peace officer.

Sec. 6. ***1. A peace officer or investigator who is involved in the investigation or prosecution of criminal activity may place a written hold for not more than 7 business days on any property in the possession of a scrap metal processor that is related or allegedly related to the criminal activity. A hold pursuant to this section may be extended for an additional period of not more than 7 business days by a peace officer or investigator by providing written notice to the scrap metal processor.***

2. While a hold is placed on property pursuant to this section, the scrap metal processor shall not remove or dispose of the property to any person other than the peace officer or investigator who placed the hold on the property. A peace officer or investigator who placed a hold on property may

obtain custody of the property from the scrap metal processor if the peace officer or investigator:

(a) Has obtained written authorization from the prosecuting attorney which includes, without limitation, a description of the property and an acknowledgment of the scrap metal processor's interest in the property; and

(b) Provides a copy of the written authorization to the scrap metal processor.

3. Property received by a peace officer or investigator pursuant to this section may be disposed of only in the manner set forth in NRS 52.385 or 179.125 to 179.165, inclusive.

4. A peace officer or investigator who places a hold on property pursuant to this section shall notify the scrap metal processor in writing when the investigation or prosecution has concluded or when the hold is no longer necessary, whichever occurs sooner.

Sec. 7. ***1. For each purchase of scrap metal with a value of $150 or more by a scrap metal processor, the scrap metal processor must pay the seller only by check or electronic transfer of money. For payments made by check to a seller who represents a business, the check must be made payable to the business using the name of the business. A scrap metal processor shall not conduct more than one cash transaction of less than $150 with the same seller on the same day.***

2. A scrap metal processor shall provide a receipt to the seller on-site at the time of the purchase of scrap metal by the scrap metal processor. The receipt must include, without limitation, the following information:

(a) The date, time and place of the purchase;

(b) An identifying description and weight of the scrap metal that is being purchased;

(c) The price paid by the scrap metal processor for the scrap metal;

(d) A copy of the personal identification provided pursuant to paragraph (c) of subsection 1 of section 5 of this act; and

(e) The license number of the vehicle delivering the scrap metal that is being purchased.

Sec. 7.5. ***Unless a greater penalty is provided pursuant to specific statute, a person who*** ~~*[knowingly and willfully]*~~ ***violates any provision of section 5, 6 or 7 of this act*** ~~*[:*~~

~~*1. For a first offense within a period of 5 years,]*~~ ***is guilty of a misdemeanor .*** ~~*[and shall be punished by a fine of not more than $500.*~~

~~*2. For a second offense within a period of 5 years, is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than 6 months and by a fine of not more than $1,000.*~~

~~*3. For a third or subsequent offense within a period of 5 years, is guilty of a category E felony and shall be punished as provided in NRS 193.130.]*~~

Sec. 8. NRS 647.010 is hereby amended to read as follows:

647.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 647.011 to 647.018, inclusive, ***and sections 2 and 3 of this act*** have the meanings ascribed to them in those sections.

Sec. 9. NRS 647.015 is hereby amended to read as follows:

647.015 "Junk" includes old iron, copper, brass, lead, zinc, tin, steel and other metals, metallic cables, wires, ropes, cordage, bottles, bagging, rags, rubber, paper, and all other secondhand, used or castoff articles or material of any kind ~~[.]~~ ***, but does not include scrap metal.***

Sec. 10. NRS 647.080 is hereby amended to read as follows:

647.080 The provisions of this chapter do not impair the power of cities ***and counties*** in this State to license, tax and regulate any person, firm or corporation now engaged in or hereafter engaged in the buying and selling of junk ~~[.]~~ ***or scrap metal.***

Sec. 11. NRS 647.145 is hereby amended to read as follows:

647.145 1. Any ***person, including, but not limited to, any*** junk dealer ***, scrap metal processor*** or secondhand dealer, or any agent, employee or representative of a junk dealer ***, scrap metal processor*** or secondhand dealer, who buys or receives any junk ***or scrap metal*** which he knows or should reasonably know is ordinarily used by and belongs to a ***cable, broadband, telecommunications,*** telephone, telegraph, gas, water, electric or transportation company or county, city or other political subdivision of this State engaged in furnishing utility service, and who fails to use ordinary care in determining whether the person selling or delivering such junk ***or scrap metal*** has a legal right to do so, is guilty of criminally receiving such property.

2. A person convicted of criminally receiving junk ***or scrap metal*** is guilty of a category D felony and shall be punished as provided in NRS 193.130.

Sec. 12. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who willfully and maliciously removes, damages or destroys any utility property, agricultural infrastructure or other agricultural property, lights maintained by the State or a local government, construction site or existing structure to obtain scrap metal shall be punished pursuant to the provisions of this section.

2. Except as otherwise provided in subsection 3, if the value of the property removed, damaged or destroyed as described in subsection 1 is:

(a) Less than $500, a person who violates the provisions of subsection 1 is guilty of a misdemeanor.

(b) Five hundred dollars or more, a person who violates the provisions of subsection 1 is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. If the removal, damage or destruction described in subsection 1 causes an interruption in the service provided by any utility property, a

person who violates the provisions of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

4. In addition to any other penalty, the court may order a person who violates the provisions of subsection 1 to pay restitution.

5. In determining the value of the property removed, damaged or destroyed as described in subsection 1, the cost of replacing or repairing the property or repairing the utility property, agricultural infrastructure, agricultural property, lights, construction site or existing structure, if necessary, must be added to the value of the property.

6. As used in this section:

(a) "Scrap metal" has the meaning ascribed to it in section 2 of this act.

(b) "Utility property" means any facility, equipment or other property owned, maintained or used by a company or a city, county or other political subdivision of this State to furnish cable television or other video service, broadband service, telecommunication service, telephone service, telegraph service, natural gas service, water service or electric service, regardless of whether the facility, property or equipment is currently used to furnish such service.

Sec. 13. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who intentionally steals, takes and carries away scrap metal with a value of less than $250 within a period of 90 days is guilty of a misdemeanor.

2. A person who intentionally steals, takes and carries away scrap metal with a value of $250 or more within a period of 90 days is guilty of:

(a) If the value of the property taken is less than $2,500, a category C felony and shall be punished as provided in NRS 193.130; or

(b) If the value of the property taken is $2,500 or more, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than $10,000.

3. In addition to any other penalty, the court shall order a person who violates the provisions of subsection 1 or 2 to pay restitution.

4. In determining the value of the property taken, the cost of repairing and, if necessary, replacing any property damaged by the theft of the scrap metal must be added to the value of the property.

5. As used in this section, "scrap metal" has the meaning ascribed to it in section 2 of this act.

Sec. 14. NRS 205.2175 is hereby amended to read as follows:

205.2175 As used in NRS 205.2175 to 205.2707, inclusive, ***and section 13 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 205.218 to 205.2195, inclusive, have the meanings ascribed to them in those sections.

Sec. 15. NRS 205.2195 is hereby amended to read as follows:

205.2195 "Property" means:

1. Personal goods, personal property and motor vehicles;

2. Money, negotiable instruments and other items listed in NRS 205.260;

3. Livestock, domesticated animals and domesticated birds; and

4. Any other item of value, whether or not the item is listed in NRS 205.2175 to 205.2707, inclusive ~~[.]~~ ***, or section 13 of this act.***

Sec. 16. NRS 205.240 is hereby amended to read as follows:

205.240 1. Except as otherwise provided in NRS 205.220, 205.226, 205.228 and 475.105, a person commits petit larceny if the person:

(a) Intentionally steals, takes and carries away, leads away or drives away:

(1) Personal goods or property, with a value of less than $250, owned by another person;

(2) Bedding, furniture or other property, with a value of less than $250, which the person, as a lodger, is to use in or with his lodging and which is owned by another person; or

(3) Real property, with a value of less than $250, that the person has converted into personal property by severing it from real property owned by another person.

(b) Intentionally steals, takes and carries away, leads away, drives away or entices away one or more domesticated animals or domesticated birds, with an aggregate value of less than $250, owned by another person.

2. ~~[A]~~ ***Unless a greater penalty is provided pursuant to section 13 of this act, a*** person who commits petit larceny is guilty of a misdemeanor. In addition to any other penalty, the court shall order the person to pay restitution.

Sec. 17. NRS 205.251 is hereby amended to read as follows:

205.251 For the purposes of NRS 205.2175 to 205.2707, inclusive ~~[.]~~ ***, and section 13 of this act:***

1. The value of property involved in a larceny offense shall be deemed to be the highest value attributable to the property by any reasonable standard.

2. The value of property involved in larceny offenses committed by one or more persons pursuant to a scheme or continuing course of conduct may be aggregated in determining the grade of the larceny offenses.

Sec. 18. NRS 205.940 is hereby amended to read as follows:

205.940 1. Any person who in renting or leasing any personal property obtains or retains possession of such personal property by means of any false or fraudulent representation, fraudulent concealment, false pretense or personation, trick, artifice or device, including, but not limited to, a false representation as to his name, residence, employment or operator's license, is guilty of larceny and shall be punished as provided in NRS 205.2175 to 205.2707, inclusive ~~[.]~~ ***, and section 13 of this act.*** It is a complete defense to any civil action arising out of or involving the arrest or detention of any person renting or leasing personal property that any representation made by him in obtaining or retaining possession of the personal property is contrary to the fact.

2. Any person who, after renting or leasing any personal property under an agreement in writing which provides for the return of the personal property to a particular place at a particular time fails to return the personal property to such place within the time specified, and who, with the intent to defraud the lessor or to retain possession of such property without the lessor's permission, thereafter fails to return such property to any place of business of the lessor within 72 hours after a written demand for the return of such property is made upon him by registered mail addressed to his address as shown in the written agreement, or in the absence of such address, to his last known place of residence, is guilty of larceny and shall be punished as provided in NRS 205.2175 to 205.2707, inclusive ~~[.]~~ ***, and section 13 of this act.*** The failure to return the personal property to the place specified in the agreement is prima facie evidence of an intent to defraud the lessor or to retain possession of such property without the lessor's permission. It is a complete defense to any civil action arising out of or involving the arrest or detention of any person upon whom such demand was made that he failed to return the personal property to any place of business of the lessor within 20 days after such demand.

Sec. 19. NRS 205.980 is hereby amended to read as follows:

205.980 1. A person who is convicted of violating any provision of NRS 205.060 or 205.2175 to 205.2707, inclusive, ***or section 13 of this act*** is civilly liable for the value of any property stolen and not recovered in its original condition. The value of the property must be determined by its retail value or fair market value at the time the crime was committed, whichever is greater.

2. A person who is convicted of any other crime involving damage to property is civilly liable for the amount of damage done to the property.

3. The prosecutor shall notify the victim concerning the disposition of the criminal charges against the defendant within 30 days after the disposition. The notice must be sent to the last known address of the victim.

4. An order of restitution signed by the judge in whose court the conviction was entered shall be deemed a judgment against the defendant for the purpose of collecting damages.

5. Nothing in this section prohibits a victim from recovering additional damages from the defendant.

Sec. 20. This act becomes effective on July 1, 2009.

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 233.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 251.

The following Senate amendment was read:

Amendment No. 622.

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 such nominees shall be deemed to be duly elected members of the executive board.

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 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 and the nominated candidates shall be deemed to be duly elected to the executive board 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 6, in the ~~[manner established *for distribution of ballots* in the bylaws]~~ ***next regular mailing*** 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 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 Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 251.

Remarks by Assemblyman Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 129.

The following Senate amendment was read:

Amendment No. 604.

AN ACT relating to common-interest communities; providing that the provisions governing common-interest communities do not modify the tariffs, rules and standards of a public utility; requiring the governing documents of an association to be consistent with the tariffs, rules and standards of a public utility; prohibiting an association from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill: (1) states that the provisions of chapter 116 of NRS do not modify the tariffs, rules and standards of a public utility; and (2) provides that the governing documents of associations of common-interest communities must be consistent and not conflict with the tariffs, rules and standards of a public utility.

Section 2 of this bill prohibits an association of any common-interest community from restricting the parking of certain utility service vehicles, law enforcement vehicles and emergency services vehicles **~~[.]~~ under certain circumstances. (NRS 116.350)**

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. The provisions of this chapter do not invalidate or modify the tariffs, rules and standards of a public utility.

2. The governing documents of an association must be consistent and not conflict with the tariffs, rules and standards of a public utility. Any provision of the governing documents which conflicts with the tariffs, rules and standards of a public utility is void and may not be enforced against a purchaser.

3. As used in this section, "public utility" has the meaning ascribed to it in NRS 704.020.

Sec. 2. NRS 116.350 is hereby amended to read as follows:

116.350 1. In a common-interest community which is not gated or enclosed and the access to which is not restricted or controlled by a person or device, the executive board shall not and the governing documents must not

provide for the regulation of any road, street, alley or other thoroughfare the right-of-way of which is accepted by the State or a local government for dedication as a road, street, alley or other thoroughfare for public use.

2. ~~[~~The~~]~~ ***Except as otherwise provided in subsection 3, the*** provisions of subsection 1 do not preclude an association from adopting, and do not preclude the governing documents of an association from setting forth, rules that reasonably restrict the parking or storage of recreational vehicles, watercraft, trailers or commercial ~~*[motor]*~~ vehicles in the common-interest community to the extent authorized by law.

3. In any common-interest community, the executive board shall not and the governing documents must not prohibit a person from:

(a) Parking a utility service vehicle that has a gross vehicle weight rating of 20,000 pounds or less:

(1) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of ~~*[or in front of]*~~ ***the unit of a subscriber or consumer, while the person is engaged in any activity relating to the delivery of public utility services to subscribers or consumers; or***

(2) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of ~~*[or in front of]*~~ ***his unit, if the person is:***

(I) A unit's owner or a tenant of a unit's owner; and

(II) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to emergency requests for public utility services; or

(b) Parking a law enforcement vehicle or emergency services vehicle:

(1) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of ~~*[or in front of]*~~ ***the unit of a person to whom law enforcement or emergency services are being provided, while the person is engaged in his official duties; or***

(2) In an area designated for parking for visitors, in a designated parking area or common parking area, or on the driveway of ~~*[or in front of]*~~ ***his unit, if the person is:***

(I) A unit's owner or a tenant of a unit's owner; and

(II) Bringing the vehicle to his unit pursuant to his employment with the entity which owns the vehicle for the purpose of responding to requests for law enforcement services or emergency services.

4. An association may require that a person parking a utility service vehicle, law enforcement vehicle or emergency services vehicle as set forth in subsection 3 provide written confirmation from his employer that the person is qualified to park his vehicle in the manner set forth in subsection 3.

5. As used in this section:

(a) ~~*[*~~*"Commercial motor vehicle" has the meaning ascribed to it in 49 C.F.R. 350.105.*~~

~~*(b)]*~~ ***"Emergency services vehicle" means a vehicle:***

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide emergency services.

~~*[(c)]*~~ ***(b) "Law enforcement vehicle" means a vehicle:***

(1) Owned by any governmental agency or political subdivision of this State; and

(2) Identified by the entity which owns the vehicle as a vehicle used to provide law enforcement services.

~~*[(d)]*~~ ***(c) "Utility service vehicle" means any*** ~~*[commercial]*~~ ***motor vehicle:***

(1) Used in the furtherance of repairing, maintaining or operating any structure or any other physical facility necessary for the delivery of public utility services, including, without limitation, the furnishing of electricity, gas, water, sanitary sewer, telephone, cable or community antenna service; and

(2) Except for any emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the ~~*[commercial]*~~ ***motor vehicle is owned, leased or rented by the utility.***

Assemblyman Anderson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 129.

Remarks by Assemblyman Anderson.

Potential conflict of interest declared by Assemblyman Oceguera.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 46.

The following Senate amendment was read:

Amendment No. 621.

AN ACT relating to firearms; requiring a court to transmit certain records of adjudication concerning a person's mental health to the Central Repository for Nevada Records of Criminal History for certain purposes relating to the purchase or possession of a firearm; establishing procedures for those persons to petition a court to regain certain rights relating to the purchase or possession of a firearm; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Federal law requires states to transmit to the National Instant Criminal Background Check System records of adjudication of mental illness or incompetence, involuntary admission to mental health facilities and other records which indicate a person is prohibited from purchasing a firearm. Federal law also requires states to implement a program by which a person who was previously adjudicated mentally ill or involuntarily committed can apply to have his right to possess a firearm restored and ties this requirement to certain federal funding for states under the NICS Improvement

Amendments Act of 2007. (Public Law 110-180) Nevada law prohibits a person from owning or possessing a firearm if he has been adjudicated as mentally ill or has been committed to any mental health facility. (NRS 202.360)

Sections 1-4 and 13 of this bill require a court to transmit to the Central Repository for Nevada Records of Criminal History a record of any court order, judgment, plea or verdict concerning the involuntary admission of a person to a mental health facility, the appointment of a guardian for a person who has a mental defect, a finding that a person is incompetent to stand trial, a verdict acquitting a person by reason of insanity or a plea of guilty but mentally ill, along with a statement that the record is being transmitted for inclusion in all appropriate databases of the National Instant Criminal Background Check System. (NRS 159.055, 174.035, 175.533, 175.539, 178.425, 433A.310)

Section 7 of this bill requires the Central Repository to take reasonable steps to ensure that the records transmitted to it by the court are included in each appropriate database of the National Instant Criminal Background Check System. In accordance with federal law, this section also provides a procedure for a person who is the subject of such a record to petition a court to have the record removed from the National Instant Criminal Background Check System and to have his right to possess or purchase a firearm restored.

Section 8 of this bill provides that the records transmitted by the court to the Central Repository are confidential, may not be used for any purpose other than for inclusion in each appropriate database of the National Instant Criminal Background Check System, and no cause of action for damages may be brought for transmission, failure to transmit, delay in transmitting or inaccuracies within such records.

Section 8.5 of this bill authorizes a person who is or believes he is the subject of a record of mental health held by the Central Repository to inspect and correct such records. This section, which is modeled after NRS 179A.150, also requires the Central Repository and the Director of the Department of Public Safety to adopt certain regulations relating to the inspection and correction of such records.

Section 11.5 of this bill requires a court, when appointing a general guardian, to determine whether a proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to federal law.

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

Section 1. NRS 174.035 is hereby amended to read as follows:

174.035 1. A defendant may plead not guilty, guilty, guilty but mentally ill or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty or guilty but mentally ill.

2. If a plea of guilty or guilty but mentally ill is made in a written plea agreement, the agreement must be in substantially the form prescribed in

NRS 174.063. If a plea of guilty or guilty but mentally ill is made orally, the court shall not accept such a plea or a plea of nolo contendere without first addressing the defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and consequences of the plea.

3. With the consent of the court and the district attorney, a defendant may enter a conditional plea of guilty, guilty but mentally ill or nolo contendere, reserving in writing the right, on appeal from the judgment, to a review of the adverse determination of any specified pretrial motion. A defendant who prevails on appeal must be allowed to withdraw the plea.

4. A plea of guilty but mentally ill must be entered not less than 21 days before the date set for trial. A defendant who has entered a plea of guilty but mentally ill has the burden of establishing his mental illness by a preponderance of the evidence. Except as otherwise provided by specific statute, a defendant who enters such a plea is subject to the same criminal, civil and administrative penalties and procedures as a defendant who pleads guilty.

5. The defendant may, in the alternative or in addition to any one of the pleas permitted by subsection 1, plead not guilty by reason of insanity. A plea of not guilty by reason of insanity must be entered not less than 21 days before the date set for trial. A defendant who has not so pleaded may offer the defense of insanity during trial upon good cause shown. Under such a plea or defense, the burden of proof is upon the defendant to establish by a preponderance of the evidence that:

(a) Due to a disease or defect of the mind, he was in a delusional state at the time of the alleged offense; and

(b) Due to the delusional state, he either did not:

(1) Know or understand the nature and capacity of his act; or

(2) Appreciate that his conduct was wrong, meaning not authorized by law.

6. If a defendant refuses to plead or if the court refuses to accept a plea of guilty or guilty but mentally ill or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.

7. A defendant may not enter a plea of guilty or guilty but mentally ill pursuant to a plea bargain for an offense punishable as a felony for which:

(a) Probation is not allowed; or

(b) The maximum prison sentence is more than 10 years,

➥ unless the plea bargain is set forth in writing and signed by the defendant, the defendant's attorney, if he is represented by counsel, and the prosecuting attorney.

8. ***If the court accepts a plea of guilty but mentally ill pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that plea to be transmitted to the Central Repository for Nevada Records of Criminal History along with a statement indicating that the record is being transmitted for inclusion in each***

appropriate database of the National Instant Criminal Background Check System.

9. As used in this section ~~[, a "disease]~~ ***:***

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 2. NRS 175.533 is hereby amended to read as follows:

175.533 1. During a trial, upon a plea of not guilty by reason of insanity, the trier of fact may find the defendant guilty but mentally ill if the trier of fact finds all of the following:

(a) The defendant is guilty beyond a reasonable doubt of an offense;

(b) The defendant has established by a preponderance of the evidence that due to a disease or defect of the mind, he was mentally ill at the time of the commission of the offense; and

(c) The defendant has not established by a preponderance of the evidence that he is not guilty by reason of insanity pursuant to subsection 5 of NRS 174.035.

2. Except as otherwise provided by specific statute, a defendant who is found guilty but mentally ill is subject to the same criminal, civil and administrative penalties and procedures as a defendant who is found guilty.

3. ***If the trier of fact finds a defendant guilty but mentally ill pursuant to subsection 1, the court shall cause, on a form prescribed by the Department of Public Safety, a record of the finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.***

4. As used in this section ~~[, a "disease]~~ ***:***

(a) "Disease or defect of the mind" does not include a disease or defect which is caused solely by voluntary intoxication.

(b) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 3. NRS 175.539 is hereby amended to read as follows:

175.539 1. Where on a trial a defense of insanity is interposed by the defendant and he is acquitted by reason of that defense, the finding of the jury pending the judicial determination pursuant to subsection 2 has the same effect as if he were regularly adjudged insane, and the judge must:

(a) Order a peace officer to take the person into protective custody and transport him to a forensic facility for detention pending a hearing to determine his mental health;

(b) Order the examination of the person by two psychiatrists, two psychologists, or one psychiatrist and one psychologist who are employed by a division facility; and

(c) At a hearing in open court, receive the report of the examining advisers and allow counsel for the State and for the person to examine the advisers, introduce other evidence and cross-examine witnesses.

2. If the court finds, after the hearing:

(a) That there is not clear and convincing evidence that the person is a person with mental illness, the court must order his discharge; or

(b) That there is clear and convincing evidence that the person is a person with mental illness, the court must order that he be committed to the custody of the Administrator of the Division of Mental Health and Developmental Services of the Department of Health and Human Services until he is discharged or conditionally released therefrom in accordance with NRS 178.467 to 178.471, inclusive.

➥ The court shall issue its finding within 90 days after the defendant is acquitted.

3. The Administrator shall make the reports and the court shall proceed in the manner provided in NRS 178.467 to 178.471, inclusive.

4. ***If the court accepts a verdict acquitting a defendant by reason of insanity pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that verdict to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.***

5. As used in this section, unless the context otherwise requires:

(a) "Division facility" has the meaning ascribed to it in NRS 433.094.

(b) "Forensic facility" means a secure facility of the Division of Mental Health and Developmental Services of the Department of Health and Human Services for offenders and defendants with mental disorders. The term includes, without limitation, Lakes Crossing Center.

(c) ***"National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.***

(d) "Person with mental illness" has the meaning ascribed to it in NRS 178.3986.

Sec. 4. NRS 178.425 is hereby amended to read as follows:

178.425 1. If the court finds the defendant incompetent, and that he is dangerous to himself or to society and that commitment is required for a determination of his ability to receive treatment to competency and to attain competence, the judge shall order the sheriff to convey the defendant forthwith, together with a copy of the complaint, the commitment and the physicians' certificate, if any, into the custody of the Administrator or his designee for detention and treatment at a division facility that is secure. The order may include the involuntary administration of medication if appropriate for treatment to competency.

2. The defendant must be held in such custody until a court orders his release or until he is returned for trial or judgment as provided in NRS 178.450, 178.455 and 178.460.

3. If the court finds the defendant incompetent but not dangerous to himself or to society, and finds that commitment is not required for a determination of the defendant's ability to receive treatment to competency and to attain competence, the judge shall order the defendant to report to the Administrator or his designee as an outpatient for treatment, if it might be beneficial, and for a determination of his ability to receive treatment to competency and to attain competence. The court may require the defendant to give bail for his periodic appearances before the Administrator or his designee.

4. Except as otherwise provided in subsection 5, proceedings against the defendant must be suspended until the Administrator or his designee or, if the defendant is charged with a misdemeanor, the judge finds him capable of standing trial or opposing pronouncement of judgment as provided in NRS 178.400.

5. Whenever the defendant has been found incompetent, with no substantial probability of attaining competency in the foreseeable future, and released from custody or from obligations as an outpatient pursuant to paragraph (d) of subsection 4 of NRS 178.460, the proceedings against the defendant which were suspended must be dismissed. No new charge arising out of the same circumstances may be brought after a period, equal to the maximum time allowed by law for commencing a criminal action for the crime with which the defendant was charged, has lapsed since the date of the alleged offense.

6. If a defendant is found incompetent pursuant to this section, the court shall cause, on a form prescribed by the Department of Public Safety, a record of that finding to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

7. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 5. Chapter 179A of NRS is hereby amended by adding thereto the provisions set forth as sections 6 to 8.5, inclusive, of this act.

Sec. 6. ***"National Instant Criminal Background Check System" means the national system created by the federal Brady Handgun Violence Prevention Act, Public Law 103-159.***

Sec. 7. ***1. Upon receiving a record transmitted pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act, the Central Repository shall take reasonable steps to ensure that the information reported in the record is included in each appropriate database of the National Instant Criminal Background Check System.***

2. Except as otherwise provided in subsection 3, if the Central Repository receives a record described in subsection 1, the person who is the subject of the record may petition the court for an order declaring that:

(a) The basis for the adjudication reported in the record no longer exists;

(b) The adjudication reported in the record is deemed not to have occurred for purposes of 18 U.S.C. 922(d)(4) and (g)(4) and NRS 202.360; and

(c) The information reported in the record must be removed from the National Instant Criminal Background Check System.

3. To the extent authorized by federal law, if the record concerning the petitioner was transmitted to the Central Repository pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310, the petitioner may not file a petition pursuant to subsection 2 until ~~[5]~~ 3 years after the date of the order transmitting the record to the Central Repository.

4. A petition filed pursuant to subsection 2 must be:

(a) Filed in the court which made the adjudication or finding pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act; and

(b) Served upon the district attorney for the county in which the court described in paragraph (a) is located.

5. The court shall grant the petition and issue the order described in subsection 2 if the court finds that the petitioner has established that:

(a) The basis for the adjudication or finding made pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act concerning the petitioner no longer exists;

(b) The petitioner's record and reputation indicate that the petitioner is not likely to act in a manner dangerous to public safety; and

(c) Granting the relief requested by the petitioner pursuant to subsection 2 is not contrary to the public interest.

6. Except as otherwise provided in this subsection, the petitioner must establish the provisions of subsection 5 by a preponderance of the evidence. If the adjudication or finding concerning the petitioner was made pursuant to NRS 433A.310 or section 11.5 of this act, the petitioner must establish the provisions of subsection 5 by clear and convincing evidence.

7. The court, upon entering an order pursuant to this section, shall cause, on a form prescribed by the Department of Public Safety, a record of the order to be transmitted to the Central Repository.

8. Within 5 business days after receiving a record of an order transmitted pursuant to subsection 7, the Central Repository shall take reasonable steps to ensure that information concerning the adjudication or finding made pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act is removed from the National Instant Criminal Background Check System.

9. If the Central Repository fails to remove a record as provided in subsection 8, the petitioner may bring an action to compel the removal of the record. If the petitioner prevails in the action, the court may award the petitioner reasonable attorney's fees and costs incurred in bringing the action.

10. If a petition brought pursuant to subsection 2 is denied, the person who is the subject of the record may petition for a rehearing not sooner than 2 years after the date of the denial of the petition.

Sec. 8. ***1. Any record described in section 7 of this act is confidential and is not a public book or record within the meaning of NRS 239.010. A person may not use the record for any purpose other than for inclusion in the appropriate database of the National Instant Criminal Background Check System.***

2. If a person or governmental entity is required to transmit, report or take any other action concerning a record pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 7 or 11.5 of this act, no action for damages may be brought against the person or governmental entity for:

(a) Transmitting or reporting the record or taking any other required action concerning the record;

(b) Failing to transmit or report the record or failing to take any other required action concerning the record;

(c) Delaying the transmission or reporting of the record or delaying in taking any other required action concerning the record; or

(d) Transmitting or reporting an inaccurate or incomplete version of the record or taking any other required action concerning an inaccurate or incomplete version of the record.

Sec. 8.5. ***1. The Central Repository shall permit a person who is or believes he may be the subject of information relating to records of mental health held by the Central Repository to inspect and correct any information contained in such records.***

2. The Central Repository shall adopt regulations and make available necessary forms to permit inspection, review and correction of information relating to records of mental health by those persons who are the subjects thereof. The regulations must specify:

(a) The requirements for proper identification of the persons seeking access to the records; and

(b) The reasonable charges or fees, if any, for inspecting records.

3. The Director of the Department shall adopt regulations governing:

(a) All challenges to the accuracy or sufficiency of information or records of mental health by the person who is the subject of the allegedly inaccurate or insufficient record;

(b) The correction of any information relating to records of mental health found by the Director to be inaccurate, insufficient or incomplete in any material respect;

(c) The dissemination of corrected information to those persons or agencies which have previously received inaccurate or incomplete information; and

(d) A reasonable time limit within which inaccurate or insufficient information relating to records of mental health must be corrected and the corrected information disseminated.

4. As used in this section, "information relating to records of mental health" means information contained in a record:

(a) Transmitted to the Central Repository pursuant to NRS 174.035, 175.533, 175.539, 178.425 or 433A.310 or section 11.5 of this act; or

(b) Transmitted to the National Instant Criminal Background Check System pursuant to section 7 of this act.

Sec. 9. 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 6 of this act*** have the meanings ascribed to them in those sections.

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 11.5. Chapter 159 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the court orders a general guardian appointed for a proposed ward, the court shall determine, by clear and convincing evidence, whether the proposed ward is a person with a mental defect who is prohibited from possessing a firearm pursuant to 18 U.S.C. 922(d)(4) or (g)(4). If a court makes a finding pursuant to this section that the proposed ward is a person with a mental defect, the court shall include the finding in the order appointing the guardian and cause a record of the order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

2. As used in this section:

(a) "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

(b) "Person with a mental defect" means a person who, as a result of marked subnormal intelligence, mental illness, incompetence, condition or disease, is:

(1) A danger to himself or others; or

(2) Lacks the capacity to contract or manage his own affairs.

Sec. 12. NRS 202.362 is hereby amended to read as follows:

202.362 1. Except as otherwise provided in subsection 3, a person within this State shall not sell or otherwise dispose of any firearm or ammunition to another person if he has actual knowledge that the other person:

(a) Is under indictment for, or has been convicted of, a felony in this or any other state, or in any political subdivision thereof, or of a felony in violation of the laws of the United States of America, unless he has received a pardon and the pardon does not restrict his right to bear arms;

(b) Is a fugitive from justice;

(c) Has been adjudicated as mentally ill or has been committed to any mental health facility; or

(d) Is illegally or unlawfully in the United States.

2. A person who violates the provisions of subsection 1 is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than $10,000.

3. This section does not apply to a person who sells or disposes of any firearm or ammunition to:

(a) A licensed importer, licensed manufacturer, licensed dealer or licensed collector who, pursuant to 18 U.S.C. 925(b), is not precluded from dealing in firearms or ammunition; or

(b) A person who has been granted relief from the disabilities imposed by federal laws pursuant to 18 U.S.C. 925(c) ~~[.]~~ ***or section 7 of this act.***

Sec. 13. NRS 433A.310 is hereby amended to read as follows:

433A.310 1. Except as otherwise provided in NRS 432B.6076 and 432B.6077, if the district court finds, after proceedings for the involuntary court-ordered admission of a person to a public or private mental health facility:

(a) That there is not clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness or 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 person must not be involuntarily detained in such a facility.

(b) That there is clear and convincing evidence that the person with respect to whom the hearing was held has a mental illness and, because of that illness, is likely to harm himself or others if allowed his liberty, the court may order the involuntary admission of the person 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 involuntary admission, the person is unconditionally released pursuant to NRS 433A.390.

2. Except as otherwise provided in NRS 432B.608, an involuntary admission pursuant to paragraph (b) of subsection 1 automatically expires at the end of 6 months if not terminated previously by the medical director of the public or private mental health facility as provided for in subsection 2 of NRS 433A.390. Except as otherwise provided in NRS 432B.608, at the end of the court-ordered period of treatment, the Division or any mental health facility that is not operated by the Division may petition to renew the detention of the person for additional periods not to exceed 6 months each.

For each renewal, the petition must set forth to the court specific reasons why further treatment would be in the person's own best interests.

3. Before issuing an order for involuntary 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 person, or other persons professionally qualified in the field of psychiatric mental health, which the court believes may be in the best interests of the person.

4. If the court issues an order involuntarily admitting a person to a public or private mental health facility pursuant to this section, the court shall, notwithstanding the provisions of NRS 433A.715, cause, on a form prescribed by the Department of Public Safety, a record of such order to be transmitted to the Central Repository for Nevada Records of Criminal History, along with a statement indicating that the record is being transmitted for inclusion in each appropriate database of the National Instant Criminal Background Check System.

5. As used in this section, "National Instant Criminal Background Check System" has the meaning ascribed to it in section 6 of this act.

Sec. 14. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 15. This act becomes effective on January 1, 2010.

Assemblyman Anderson moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 46.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered to the Senate.

Assembly Bill No. 350.

The following Senate amendment was read:

Amendment No. 737.

AN ACT relating to common-interest communities; revising provisions relating to ~~[costs of collection and the payment of fines and assessments, the rights of a unit's owner with respect to meetings and the 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;]~~ **interest on certain past due assessments; providing that punitive damages may not be awarded against the members of the executive board or the officers of an association under certain circumstances;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Section 1.5 of this bill 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 provides that: (1) punitive damages may not be recovered against an association, but may be recovered against persons whose activity gave rise to the damages; and (2) punitive damages may be awarded for a willful and material failure to comply with any provision of chapter 116 of NRS. (NRS 116.31036, 116.4117) Sections 5.5 and 16.5 of this bill provide that punitive damages may not be recovered against the members of the executive board or the officers of an association for acts or omissions that occur in their capacity as members or officers.

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.]~~ **provides that any past due assessment for common expenses or installment thereof bears interest at the rate established by the association, which must not exceed 18 percent per year. Section 9** of this bill provides that the association may charge the prime rate plus 2 percent on **such** a past due assessment, beginning when the assessment is 60 days past due.

~~[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 units' owners or executive board 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; (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 2 minutes on each agenda item at the time the agenda item is being addressed; and (3) 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)~~

~~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. (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.]*~~ **(Deleted by amendment.)**

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.~~**]** **(Deleted by amendment.)**

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.]~~ **(Deleted by amendment.)**

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 [:~~

~~(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) May~~**~~] must not bear interest, but 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.~~**]] (Deleted by amendment.)**

Sec. 5. (Deleted by amendment.)

Sec. 5.5. **NRS 116.31036 is hereby amended to read as follows:**

116.31036 1. Notwithstanding any provision of the declaration or bylaws to the contrary, any member of the executive board, other than a member appointed by the declarant, may be removed from the executive board, with or without cause, if at a removal election held pursuant to this section the number of votes cast in favor of removal constitutes:

(a) At least 35 percent of the total number of voting members of the association; and

(b) At least a majority of all votes cast in that removal election.

2. The removal of any member of the executive board must be conducted by secret written ballot unless the declaration of the association provides that voting rights may be exercised by delegates or representatives as set forth in NRS 116.31105. If the removal of a member of the executive board is conducted by secret written ballot:

(a) The secretary or other officer specified in the bylaws of the association shall cause a secret ballot and a return envelope to be sent, prepaid by United States mail, to the mailing address of each unit within the common-interest community or to any other mailing address designated in writing by the unit's owner.

(b) Each unit's owner must be provided with at least 15 days after the date the secret written ballot is mailed to the unit's owner to return the secret written ballot to the association.

(c) Only the secret written ballots that are returned to the association may be counted to determine the outcome.

(d) The secret written ballots must be opened and counted at a meeting of the association. A quorum is not required to be present when the secret written ballots are opened and counted at the meeting.

(e) The incumbent members of the executive board, including, without limitation, the member who is subject to the removal, may not possess, be given access to or participate in the opening or counting of the secret written ballots that are returned to the association before those secret written ballots have been opened and counted at a meeting of the association.

3. If a member of an executive board is named as a respondent or sued for liability for actions undertaken in his role as a member of the board, the association shall indemnify him for his losses or claims, and undertake all costs of defense, unless it is proven that he acted with willful or wanton misfeasance or with gross negligence. After such proof, the association is no longer liable for the cost of defense, and may recover costs already expended from the member of the executive board who so acted. Members of the executive board are not personally liable to the victims of crimes occurring on the property. Punitive damages may not be recovered against ~~[the]~~ ***:***

(a) The association ~~[, but may be recovered from persons whose activity gave rise to the damages.]~~ ***;***

(b) The members of the executive board for acts or omissions that occur in their capacity as members of the executive board; or

(c) The officers of the association for acts or omissions that occur in their capacity as officers of the association.

4. The provisions of this section do not prohibit the Commission from taking any disciplinary action against a member of an executive board pursuant to NRS 116.745 to 116.795, inclusive.

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 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 ***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 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 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.~~

~~9. The association shall maintain the minutes of each meeting of the units' owners until the common-interest community is terminated.~~

~~10. A unit's owner may record on audiotape or any other means of sound reproduction a meeting of the units' owners if the unit's owner, before~~

~~recording the meeting, provides notice of his intent to record the meeting to the other units' owners who are in attendance at the meeting.~~

~~11. The units' owners may approve, at the annual meeting of the units' owners, the minutes of the prior annual meeting of the units' owners and the minutes of any prior special meetings of the units' owners. A quorum is not required to be present when the units' owners approve the minutes.~~

~~12. As used in this section, "emergency" means any occurrence or combination of occurrences that:~~

~~(a) Could not have been reasonably foreseen;~~

~~(b) Affects the health, welfare and safety of the units' owners or residents of the common-interest community;~~

~~(c) Requires the immediate attention of, and possible action by, the executive board; and~~

~~(d) Makes it impracticable to comply with the provisions of subsection 3 or 4.~~**] (Deleted by amendment.)**

Sec. 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 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 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 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.~~

~~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.~~**] (Deleted by amendment.)**

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 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.~~] **(Deleted by amendment.)**

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 percent 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.

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 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) 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 of the association required by subsection 1, the executive board may distribute to each unit's owner a summary of those budgets, 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 [;] *but not to exceed 60 miles from the physical location of the common-interest community;* and~~

~~(b) Copies of the budgets 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.~~ **(Deleted by amendment.)**

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.]~~ **(Deleted by amendment.)**

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 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, all contracts to which the association is a party and all records filed with a court relating to a civil or criminal action to~~

~~which the association is a party. The provisions of this subsection do not apply to:~~

~~(a) The personnel records of the employees of the association, except for those records relating to the number of hours worked and the salaries and benefits of those employees;~~

~~(b) The records of the association relating to another unit's owner, except for those records described in subsection 2; and~~

~~(c) A contract between the association and an attorney.~~

~~2. The executive board of an association shall maintain a general record concerning each violation of the governing documents, other than a violation involving a failure to pay an assessment, for which the executive board has imposed a fine, a construction penalty or any other sanction. The general record:~~

~~(a) Must contain a general description of the nature of the violation and the type of the sanction imposed. If the sanction imposed was a fine or construction penalty, the general record must specify the amount of the fine or construction penalty.~~

~~(b) Must not contain the name or address of the person against whom the sanction was imposed or any other personal information which may be used to identify the person or the location of the unit, if any, that is associated with the violation.~~

~~(c) Must be maintained in an organized and convenient filing system or data system that allows a unit's owner to search and review the general records concerning violations of the governing documents.~~

~~3. If the executive board refuses to allow a unit's owner to review the books, records or other papers of the association, the Ombudsman may:~~

~~(a) On behalf of the unit's owner and upon written request, review the books, records or other papers of the association during the regular working hours of the association; and~~

~~(b) If he is denied access to the books, records or other papers, request the Commission, or any member thereof acting on behalf of the Commission, to issue a subpoena for their production.~~

~~4. The books, records and other papers of an association must be maintained for at least 10 years. The provisions of this subsection do not apply to:~~

~~(a) The minutes of a meeting of the units' owners which must be maintained in accordance with NRS 116.3108; or~~

~~(b) The minutes of a meeting of the executive board which must be maintained in accordance with NRS 116.31083.~~

~~5. The executive board shall not require a unit's owner to pay an amount in excess of $10 per hour to review any books, records, contracts or other papers of the association pursuant to the provisions of this section.~~ ***Upon written request of a unit's owner, copies must be provided to the unit's owner, in electronic 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.]*~~ **(Deleted by amendment.)**

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.]*~~ **(Deleted by amendment.)**

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.~~**]** **(Deleted by amendment.)**

Sec. 13. (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."~~ **(Deleted by amendment.)**

Sec. 14. (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.~~] **(Deleted by amendment.)**

Sec. 16. (Deleted by amendment.)

Sec. 16.5. **NRS 116.4117 is hereby amended to read as follows:**

116.4117 1. If a declarant or any other person subject to this chapter fails to comply with any of its provisions or any provision of the declaration or bylaws, any person or class of persons suffering actual damages from the failure to comply has a claim for appropriate relief.

2. Subject to the requirements set forth in NRS 38.310 and except as otherwise provided in NRS 116.3111, a civil action for damages caused by a

failure or refusal to comply with any provision of this chapter or the governing documents of an association may be brought:

(a) By the association against:

(1) A declarant; or

(2) A unit's owner.

(b) By a unit's owner against:

(1) The association;

(2) A declarant; or

(3) Another unit's owner of the association.

3. ~~[Punitive]~~ ***Except as otherwise provided in NRS 116.31036, punitive*** damages may be awarded for a willful and material failure to comply with this chapter if the failure is established by clear and convincing evidence.

4. The court may award reasonable attorney's fees to the prevailing party.

5. The civil remedy provided by this section is in addition to, and not exclusive of, any other available remedy or penalty.

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.]~~ **(Deleted by amendment.)**

Sec. 18. (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.]~~ **(Deleted by amendment.)**

Sec. 18.1. ~~[*"Client" means an executive board that has entered into a management agreement with a community manager.]~~ **(Deleted by amendment.)**

Sec. 18.2. ~~[*"Management agreement" means an agreement for the management of a common interest community.]~~ **(Deleted by amendment.)**

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.]*~~ **(Deleted by amendment.)**

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.]*~~ **(Deleted by amendment.)**

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.]*~~ **(Deleted by amendment.)**

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.]~~ **(Deleted by amendment.)**

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.]~~ **(Deleted by amendment.)**

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.]~~ **(Deleted by amendment.)**

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.~~] **(Deleted by amendment.)**

Sec. 19. (Deleted by amendment.)

Sec. 20. (Deleted by amendment.)

Sec. 21. (Deleted by amendment.)

Sec. 22. This act becomes effective on July 1, 2009.

Assemblyman Anderson moved that the Assembly do not concur in the Senate amendment to Assembly Bill No. 350.

Remarks by Assemblyman Anderson.

Motion carried.

Bill ordered to the Senate.

Assembly Bill No. 192.

The following Senate amendment was read:

Amendment No. 652.

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 2-6.5** of this bill.

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 6.5, 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.

3. The local government shall notify each applicant in writing of its determination.

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 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:***

(a) The financial ability of the applicant to perform the work required by the local government;

(b) Whether the applicant possesses a business license issued pursuant to NRS 360.780;

~~[(b)]~~ (c) 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;

~~[(c)]~~ (d) Whether the applicant has the ability to obtain the necessary bonding for the work required by the local government;

~~[(d)]~~ (e) 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;

~~[(e)]~~ (f) Whether the principal personnel employed by the applicant have the necessary professional qualifications and experience for the work required by the local government;

~~[(f)]~~ (g) 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;

~~[(g)]~~ (h) Whether the applicant has been disqualified from being awarded a contract by any governing body in the State of Nevada;

~~[(h)]~~ (i) Whether the applicant has been convicted of a violation for discrimination in employment during the 2 years immediately preceding the date of application;

~~[(i)]~~ (j) 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;

~~[(j)]~~ (k) Whether the applicant has established a safety program that complies with the requirements of chapter 618 of NRS;

~~[(k)]~~ (l) 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;

~~[(l)]~~ ***(m) 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;***

~~[(m)]~~ ***(n) Whether the application is truthful and complete; and***

~~[(n)]~~ ***(o) 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:***

(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;

(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

(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. (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 6.5, 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.~~**]** ***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 6.5, 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 6.5, 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 6.5, inclusive, of this act, when reinvesting the savings into other operating cost-savings measures.

Sec. 16. (Deleted by amendment.)

Sec. 17. This act becomes effective on July 1, 2009.

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 192.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 220.

The following Senate amendment was read:

Amendment No. 653.

AN ACT relating to the subdivision of land; revising the requirements for the purchase of property for school construction; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth a multistep process for obtaining approval for the subdivision of land. (NRS 278.320-278.460) One of the preliminary requirements is a determination of the need for a school in the area in which the subdivision is located. (NRS 278.330) If a school is needed, the subdivider is required to make suitable land within the proposed subdivision available for purchase by the school district at a price which does not exceed the fair market value of the land. Under existing law, if the school district does not construct a school on the land within 10 years from the date of purchase, the land must be offered for resale back to the subdivider or his successor in interest. (NRS 278.346)

This bill provides that, in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County), the school district and subdivider may negotiate a purchase price which is the lesser of: (1) the fair market value of the land on the date of purchase; or (2) the fair market value of the land at the time the tentative subdivision map was approved plus the costs of certain expenses paid by the subdivider. This bill also provides that, in such a county, if the purchase is not completed within 5 years after the final map that shows the school site is approved, the subdivider need not

continue to set aside the land for the school district. This bill further requires a school district in such a county **that purchased land for a school site** to offer the land back to the subdivider or successor in interest if construction on a school has not begun at the site within ~~[5]~~ **10** years from the date ~~[of purchase unless the school district has requested an exemption from the planning commission to delay construction of the school for up to another 5 years. This bill sets forth the circumstances under which the school district may apply for such an exemption.]~~ **on which the final map that shows the school site was approved.**

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

Section 1. NRS 278.346 is hereby amended to read as follows:

278.346 1. The planning commission or its designated representative ~~[,]~~ or, if there is no planning commission, the clerk or other designated representative of the governing body shall ***, not more than 10 days after the tentative map is filed pursuant to the provisions of subsection 2 of NRS 278.330,*** forward a copy of the tentative map to the board of trustees of the school district within which the proposed subdivision is located. Within 15 days after receipt of the copy, the board of trustees ***or its designee*** shall, if a school site is needed within the area, notify the commission or governing body that a site is requested.

2. If the board of trustees requests a site ~~[, the person proposing the subdivision]~~ ***:***

(a) The subdivider shall ***, except as otherwise provided in subsection 8,*** set aside a site of the size which is determined by the board. ~~[The person proposing the subdivision]~~

(b) The subdivider and the board of trustees shall ***, except as otherwise provided in subsections 7 and 8,*** negotiate for the price of the site, which must not exceed the fair market value of the land as determined by an independent appraisal paid for by the board.

3. If any land purchased by ~~[a]~~ ***the*** school district pursuant to the provisions of ~~[this subsection have]~~ ***subsection 2 has*** not been placed in use as a school site at the end of 10 years from the date of purchase, the land must be offered to the subdivider or his successor in interest at a sale price equal to the fair market value ~~[. If such person]~~ ***of the land at the time*** ~~*[such determination is made,]*~~ ***of the offer, as determined by an independent appraisal paid for by the board.***

4. If the subdivider or his successor in interest does not accept ~~[the offer,]~~ ***an offer made pursuant to the provisions of subsection 3 or 9,*** then the board of trustees may:

(a) Sell or lease such property in the manner provided in NRS 277.050 or 393.220 to 393.320, inclusive;

(b) Exchange such property in the manner provided in NRS 277.050 or 393.326 to 393.3293, inclusive; or

(c) Retain such property, if such retention is determined to be in the best interests of the school district.

~~[3.]~~ ***5.*** Except as ***otherwise*** provided in subsection ~~[4,]~~ ***6,*** when any land dedicated to the use of the public school system or any land purchased and used as a school site becomes unsuitable, undesirable or impractical for any school uses or purposes, the board of trustees of the county school district in which the land is located shall dispose of the land as provided in subsection ~~[2.]~~ ***4.***

~~[4.]~~ ***6.*** Land dedicated under the provisions of former NRS 116.020, as it read before April 6, 1961, which the board of trustees determines is unsuitable, undesirable or impractical for school purposes may be reconveyed without cost to the dedicator or his successor or successors in interest.

7. Except as otherwise provided in subsection 8, in a county whose population is 100,000 or more but less than 400,000, the school district may purchase the site for a price negotiated between the subdivider and the board of trustees, which price must not exceed the lesser of:

(a) The fair market value of the land at the time the tentative map was approved, as determined by an independent appraisal paid for by the board, plus any costs paid by the subdivider with respect to that land between the date the tentative map was approved and the date of purchase; or

(b) The fair market value of the land on the date of purchase, as determined by an independent appraisal paid for by the board.

8. If, 5 years after the date on which the final map that contains the school site was approved, a school district has not purchased the site pursuant to the provisions of subsection 7, the subdivider need not continue to set aside the site pursuant to the provisions of subsection 2.

9. ~~*[Except as otherwise provided in subsection 10, if, 5]*~~ ***If, 10 years after the date*** ~~*[of purchase of a school site pursuant to subsection 7,]*~~ ***on which the final map that contains the school site was approved, construction of a school at the school site has not yet begun, the land purchased by the school district pursuant to subsection 7 must be offered to the subdivider or his successor in interest at a sale price equal to the fair market value of the land at the time*** ~~*[such determination is made,]*~~ ***of the offer, as determined by an independent appraisal paid for by the board.***

~~*[10. The school district may apply to the planning commission for an extension of not more than 5 years to the limitation set forth in subsection 9 for the construction of a school at the school site. To apply for an extension pursuant to this subsection, the school district must demonstrate the existence of extenuating circumstances which have caused the delay in beginning the construction of the school. The planning commission must consider an application for an extension requested pursuant to this subsection at a public hearing. As used in this subsection "extenuating circumstances" may include, without limitation:*~~

~~*(a) Changes in the demand for a school site due to changes in relevant demographics.*~~

~~*(b) Delays or other significant changes in the construction of the proposed subdivision.*~~

~~*(c) A temporary lack of funds available to the school district to construct the school.*~~

~~*(d) Any other issue or problem related to the construction of the school that could not have been reasonably anticipated by the school district at the time the school site was purchased, including, without limitation, environmental issues at the school site and the unavailability of building materials.*~~

~~*11. If a school district receives an extension pursuant to subsection 10 and the school district does not begin construction of a school at the school site before the expiration of such extension, the land must be offered to the subdivider or his successor in interest at a sale price equal to the fair market value of the land at the time that the extension expires, as determined by an independent appraisal paid for by the board.]*~~

Assemblywoman Kirkpatrick moved that the Assembly concur in the Senate amendment to Assembly Bill No. 220.

Remarks by Assemblywoman Kirkpatrick.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 16.

The following Senate amendment was read:

Amendment No. 631.

AN ACT relating to emergency medical services; providing for the disclosure of certain information to an emergency response employee concerning possible exposure to an infectious disease; requiring certain notifications concerning such an exposure; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 6 of this bill requires each employer of emergency response employees in this State to designate at least one employee to serve as a designated officer to act on behalf of its emergency response employees with regard to their possible exposure to infectious diseases.

Section 7 of this bill requires a medical facility **or, in certain circumstances, the county coroner or medical examiner, as applicable,** to notify a designated officer of an emergency response employee who transported a victim of an emergency who the medical facility **, county coroner or medical examiner** determines has an ~~[airborne]~~ infectious disease. **Section 8** of this bill authorizes an emergency response employee to request that his designated officer make an initial determination of the employee's possible exposure to an infectious disease. **Section 9** of this bill requires a medical facility **, county coroner or medical examiner** to respond

to a request from a designated officer of an emergency response employee regarding whether the employee may have been exposed to an infectious disease once the medical facility **, county coroner or medical examiner** makes such a determination. **Section 10** of this bill provides that if information was insufficient for a medical facility **, county coroner or medical examiner** to determine whether an emergency response employee was exposed to an infectious disease, the health officer in whose jurisdiction the medical facility **, county coroner or medical examiner** is located shall evaluate the request and the response of the medical facility ~~[.]~~ **, county coroner or medical examiner.** **Section 11** of this bill requires a designated officer to notify each emergency response employee who responded to an emergency and may have been exposed to an infectious disease of the determination of the medical facility ~~[.]~~ **, county coroner or medical examiner.** **Section 12** of this bill provides limitations on the liability of a medical facility **, county coroner, medical examiner** or designated officer and clarifies that the provisions of this bill do not authorize an emergency response employee to fail to respond or deny services to a victim of an emergency. **Section 12** further provides that this bill does not authorize or require a medical facility **, county coroner or medical examiner** to test any victim of an emergency for the presence of an infectious disease and does not authorize or require certain persons to disclose the identity of such a victim or an emergency response employee.

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

Section 1. Chapter 450B of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this act.

Sec. 2. ***"Designated officer" means a person designated by an employer to serve as a designated officer for its emergency response employees pursuant to section 6 of this act.***

Sec. 3. ***"Emergency response employee" means a firefighter, attendant, volunteer attendant, emergency medical technician, intermediate emergency medical technician, advanced emergency medical technician , law enforcement officer, correctional officer, other peace officer or person who is employed by an agency of criminal justice, county coroner or medical examiner or any of their employees, any other public employee whose duties may require him to come into contact with human blood or bodily fluids or any other person who, in the course of his professional duties, responds to emergencies in this State.***

Sec. 4. ***"Exposed" or "exposure" means any circumstances which create a significant risk of a person becoming infected with an infectious disease.***

Sec. 5. ***"Infectious disease" means a disease caused by a living organism or other pathogen, including, without limitation, a fungus, bacillus, parasite, protozoan or virus.***

Sec. 6. ***Each employer of emergency response employees in this State shall designate at least one employee to serve as a designated officer to receive notifications and responses and make requests on behalf of its emergency response employees pursuant to sections ~~[2]~~ 6 to 12, inclusive, of this act.***

Sec. 7. ***1. Except as otherwise provided in NRS 441A.195, if a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility determines that the victim has an ~~[airborne]~~ infectious disease, the medical facility shall notify a designated officer of the emergency response employees of that determination.***

2. If a victim of an emergency is transported by emergency response employees to a medical facility, the victim dies at or before reaching the medical facility and the ~~[medical facility]~~ county coroner or medical examiner of the county in which the victim dies, as applicable, determines the cause of death of the victim, the ~~[medical facility]~~ county coroner or medical examiner shall notify a designated officer of the emergency response employees of any determination by the ~~[medical facility]~~ county coroner or medical examiner that the victim had an ~~[airborne]~~ infectious disease.

3. The medical facility to which the victim is transported or the county coroner or medical examiner of the county in which the victim dies, as applicable, shall cause the notification required by subsection 1 or 2 , as appropriate, to be made as soon as practicable, but not later than 48 hours after the determination is made.

4. The notification must include, without limitation:

(a) The name of the ~~[airborne]~~ infectious disease to which the emergency response employees may have been exposed; and

(b) The date on which the victim of the emergency was transported by the emergency response employees to the medical facility.

~~*[5. As used in this section, "airborne infectious disease" means an infectious disease transmitted from person to person by an aerosol, including, without limitation, tuberculosis.]*~~

Sec. 8. ***1. Except as otherwise provided in NRS 441A.195, if an emergency response employee believes that he may have been exposed to an infectious disease by a victim of an emergency who was transported, attended, treated or assisted by the emergency response employee, a designated officer of the employee shall, upon the request of the employee, make an initial determination of the possible exposure of the employee to an infectious disease by:***

(a) Collecting the facts relating to the circumstances under which the employee may have been exposed to an infectious disease; and

(b) Evaluating the facts to determine whether the victim had an infectious disease and whether the employee may have been exposed to the disease.

2. If a designated officer determines that an emergency response employee may have been exposed to an infectious disease, the designated officer shall submit to the medical facility to which the victim was transported or the county coroner or medical examiner of the county in which the victim died, as applicable, a written request for a response.

Sec. 9. ***1. If a medical facility , county coroner or medical examiner, as applicable, receives a written request for a response pursuant to subsection 2 of section 8 of this act, the medical facility , county coroner or medical examiner shall, as soon as practicable but not later than 48 hours after receiving the request, evaluate the facts submitted in the request and determine whether the emergency response employee was exposed to an infectious disease.***

2. If the medical facility , county coroner or medical examiner, as applicable, determines that the emergency response employee may have been exposed or was not exposed to an infectious disease or that insufficient information exists for ~~[it to make]~~ a determination ~~[,]~~ to be made, the medical facility , county coroner or medical examiner shall notify, in writing, the designated officer who submitted the request.

~~*[3. If a victim dies at or before reaching the medical facility and the medical facility receives a written request for a response pursuant to subsection 2 of section 8 of this act, the medical facility shall provide a copy of the request to any other medical facility that is ascertaining the cause of death of the victim.]*~~

Sec. 10. ***1. If a designated officer receives a notice from a medical facility , county coroner or medical examiner, as applicable, pursuant to subsection 2 of section 9 of this act that insufficient information exists for the medical facility , county coroner or medical examiner to make a determination of whether an emergency response employee was exposed to an infectious disease, the designated officer may submit a request for further evaluation to the health officer in whose jurisdiction the medical facility , county coroner or medical examiner is located. A request submitted pursuant to this subsection must include the original request for a written response submitted by the designated officer pursuant to subsection 2 of section 8 of this act.***

2. If a health officer receives a request for further evaluation pursuant to subsection 1, the health officer shall evaluate the request and the request for a written response submitted by the designated officer pursuant to subsection 2 of section 8 of this act. An evaluation conducted pursuant to this subsection must be completed as soon as practicable but not later than 48 hours after the request for further evaluation is received.

3. If an evaluation conducted pursuant to subsection 2 indicates that the facts provided to the medical facility , county coroner or medical examiner, as applicable, were:

(a) Sufficient to determine that an emergency response employee was exposed to an infectious disease, the health officer shall, on behalf of the

designated officer, resubmit the request to the medical facility ~~[.]~~ , county coroner or medical examiner; or

(b) Insufficient to determine that an emergency response employee was exposed to an infectious disease, the health officer shall advise the designated officer in writing regarding the collection and description of additional facts for further evaluation by the medical facility , county coroner or medical examiner pursuant to section 9 of this act.

Sec. 11. ***1. If a designated officer receives a notice from a medical facility , county coroner or medical examiner, as applicable, pursuant to section 9 of this act that an emergency response employee may have been exposed to an infectious disease, the designated officer shall, as soon as is practicable after receiving the notice, notify each emergency response employee who responded to the emergency and may have been exposed to an infectious disease.***

2. The notification must include, without limitation:

(a) A statement indicating that the emergency response employee may have been exposed to an infectious disease;

(b) The name of the infectious disease;

(c) The date on which the victim of the emergency was transported by the emergency response employee to the medical facility; and

(d) Any action that is medically appropriate for the emergency response employee to take.

Sec. 12. ***The provisions of sections ~~[2]~~ 6 to 12, inclusive, of this act must not be construed to:***

1. Authorize any cause of action for damages or any civil penalty against a medical facility , county coroner, medical examiner or designated officer that fails to comply with any requirement of those provisions.

2. Require or authorize a medical facility , county coroner or medical examiner to test a victim of an emergency for the presence of an infectious disease.

3. Require or authorize a medical facility, county coroner, medical examiner, designated officer or emergency response employee to disclose the identity of or identifying information about a victim of an emergency or an emergency response employee.

4. Authorize an emergency response employee to fail to respond or deny services to a victim of an emergency.

Sec. 13. NRS 450B.020 is hereby amended to read as follows:

450B.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 450B.025 to 450B.110, inclusive, ***and sections 2 to 5, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 14. This act becomes effective on July 1, 2009.

Assemblywoman Smith moved that the Assembly concur in the Senate amendment to Assembly Bill No. 16.

Remarks by Assemblymen Smith, Oceguera, and Hardy.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 307.

The following Senate amendment was read:

Amendment No. 682.

AN ACT relating to property taxes; revising provisions governing the publication of certain information relating to property taxes for counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires a 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. **Section 1 also requires that the notices of completion of the secured property tax roll include a statement indicating that the secured roll is available on the Internet and providing the Internet address.**

Section 2 of this bill amends the requirements for publishing notices of delinquencies for counties by providing for publication of such notices on the website or other Internet site.

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. ***The transmitted, posted and published notices must each contain a statement indicating that the secured roll is available on the Internet and state the Internet address where the secured roll is available. The statement published in the newspaper must be prominently displayed in the format used for advertisements in at least 10-point bold type or font.***

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 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.***

~~[(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. A board of county commissioners may, in the resolution required by subsection 3, authorize the county assessor not to deliver or mail the list, as provided in paragraph (a) of subsection 3, 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. 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. 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. ***The written notice must include a statement in at least 10-point bold type or font indicating that the secured roll is available on the Internet and state the Internet address where the secured roll is available.***

7. 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 for the new assessed valuation.

(b) The dates for appealing the new assessed valuation.

8. Failure by the taxpayer to receive a notice required by this section does not invalidate the appraisal or reappraisal.

9. In addition to complying with subsections 6 and 7, 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*** ~~[in the newspaper which publishes the list of taxpayers]~~ pursuant to NRS 361.300. ~~[If there is no 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 that the Assembly concur in the Senate amendment to Assembly Bill No. 307.

Remarks by Assemblywoman McClain.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 89.

The following Senate amendment was read:

Amendment No. 659.

AN ACT relating to the protection of children; making various changes concerning the investigation of applicants for a license to operate a child care facility, licensees and others over whom applicants or licensees exercise some control; requiring applicants and licensees to terminate certain employees and remove certain residents and participants in outdoor youth programs who have been convicted of certain crimes or who have had a substantiated report of child abuse or neglect made against them; expanding the grounds for denying a license and for taking other disciplinary action against a licensee; authorizing the imposition of administrative fines for

violations of certain laws and regulations concerning licensure of child care facilities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the licensure of certain child care facilities. (NRS 432A.131-432A.220) As part of the process for obtaining a license, the Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services conducts a background check of each applicant for a license, licensee, employee of an applicant or licensee and every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older. (NRS 432A.170, 432A.175) **Section 5** of this bill expands the list of crimes that the Bureau must inquire about as part of such an investigation and requires the Bureau to request information concerning every applicant, licensee, employee, resident or participant from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child to determine whether there has been a substantiated report of child abuse or neglect made against any of those persons. (NRS 432A.170) **Section 6** of this bill requires the Bureau to obtain permission from each such applicant, licensee, employee, resident or participant to obtain such information from the Statewide Central Registry. (NRS 432A.175) If an employee of an applicant or licensee, or a resident or participant, has been convicted of one of the crimes inquired about as part of the investigation, the Bureau is required to notify the applicant or licensee. Upon receiving such notice, **section 2** of this bill requires the applicant or licensee to terminate the employment of the employee, remove the resident from the child care facility or remove the participant from the outdoor youth program, as applicable, after affording the person an opportunity to correct the information. **Section 6** further requires an applicant or licensee to notify the Bureau when the applicant, licensee, employee, resident or participant is involved in certain legal proceedings or disciplinary hearings or charged with certain crimes. (NRS 432A.175)

Section 4 of this bill prohibits the Bureau from issuing a provisional license to operate a child care facility unless the Bureau has completed an investigation into the qualifications and background of the applicant and his employees to ensure that they have not been convicted of certain crimes or had a substantiated report of child abuse or neglect made against them. (NRS 432A.160)

Section 7 of this bill expands the grounds for denial of an application for a license to operate a child care facility and for taking disciplinary action against a licensee and authorizes the Bureau to impose administrative fines for a violation of the statutes governing licensure of child care facilities or the regulations adopted pursuant thereto. (NRS 432A.190)

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

Section 1. Chapter 432A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. Upon receiving information pursuant to NRS 432A.175 from the Central Repository for Nevada Records of Criminal History or the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 or evidence from any other source that an employee of an applicant for a license to operate a child care facility or a licensee, or a resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him, the applicant or licensee shall terminate the employment of the employee or remove the resident from the facility or participant from the outdoor youth program after allowing the employee, resident or participant time to correct the information as required pursuant to subsection 2.***

2. If an employee, resident or participant believes that the information provided to the applicant or licensee pursuant to subsection 1 is incorrect, he must inform the applicant or licensee immediately. The applicant or licensee shall give any such employee, resident or participant 30 days to correct the information.

3. During any period in which an employee, resident or participant seeks to correct information pursuant to subsection 2, it is within the discretion of the applicant or licensee whether to allow the employee, resident or participant to continue to work for or reside at the child care facility or participate in the outdoor youth program, as applicable.

Sec. 3. ***1. Each applicant for a license to operate a child care facility and licensee shall maintain records of the information concerning its employees and any residents of the child care facility or participants in any outdoor youth program who are 18 years of age or older that is collected pursuant to NRS 432A.170 and 432A.175, including, without limitation:***

(a) ~~*[A copy of the fingerprints submitted to the Central Repository for Nevada Records of Criminal History;*~~

~~*(b)]*~~ ***Proof that the applicant or licensee submitted fingerprints to the Central Repository for its report; and***

~~*[(c)]*~~ ***(b) The written authorization to obtain information from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 .*** ~~*[;*~~ ~~*and*~~

~~*(d) Proof that the applicant or licensee requested information from the Statewide Central Registry.]*~~

2. The records maintained pursuant to subsection 1 must be made available for inspection by the Bureau at any reasonable time, and copies thereof must be furnished to the Bureau upon request.

Sec. 4. NRS 432A.160 is hereby amended to read as follows:

432A.160 1. ~~[The]~~ ***Except as otherwise provided in this section, the*** Bureau may issue a provisional license, effective for a period not exceeding 1 year, to a child care facility which:

(a) Is in operation at the time of adoption of standards and other regulations pursuant to the provisions of this chapter, if the Bureau determines that the facility requires a reasonable time under the particular circumstances, not to exceed 1 year from the date of the adoption, within which to comply with the standards and other regulations;

(b) Has failed to comply with the standards and other regulations, if the Bureau determines that the facility is in the process of making the necessary changes or has agreed to effect the changes within a reasonable time; or

(c) Is in the process of applying for a license, if the Bureau determines that the facility requires a reasonable time within which to comply with the standards and other regulations.

2. The provisions of subsection 1 do not require the issuance of a license or prevent the Bureau from refusing to renew or from revoking or suspending any license in any instance where the Bureau considers that action necessary for the health and safety of the occupants of any facility or the clients of any outdoor youth program.

3. A provisional license must not be issued pursuant to this section unless the Bureau has completed an investigation into the qualifications and background of the applicant and his employees pursuant to NRS 432A.170 to ensure that the applicant and each employee of the applicant, or every resident of the child care facility or participant in any outdoor youth program who is 18 years of age or older, has not been convicted of a crime listed in subsection 2 of NRS 432A.170 and has not had a substantiated report of child abuse or neglect made against him.

Sec. 5. NRS 432A.170 is hereby amended to read as follows:

432A.170 1. The Bureau may, upon receipt of an application for a license to operate a child care facility, conduct an investigation into the:

(a) Buildings or premises of the facility and, if the application is for an outdoor youth program, the area of operation of the program;

(b) Qualifications and background of the applicant or his employees;

(c) Method of operation for the facility; and

(d) Policies and purposes of the applicant.

2. The Bureau shall secure from appropriate law enforcement agencies information on the background and personal history of every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, to determine whether he has been convicted of:

(a) Murder, voluntary manslaughter or mayhem;

(b) Any other felony involving the use of a firearm or other deadly weapon;

(c) Assault with intent to kill or to commit sexual assault or mayhem;

(d) Sexual assault, statutory sexual seduction, incest, lewdness, indecent exposure or any other sexually related crime;

(e) Abuse or neglect of a child or contributory delinquency; ~~[or]~~

(f) A violation of any federal or state law regulating the possession, distribution or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS ~~[.]~~ ***;***

(g) Abuse, neglect, exploitation or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct; or

(h) Any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion or misappropriation of property within the immediately preceding 7 years.

3. ***The Bureau shall request information concerning every applicant, licensee or employee of an applicant or licensee, or every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100 to determine whether there has been a substantiated report of child abuse or neglect made against any of them.***

4. The Bureau may charge each person investigated pursuant to this section for the reasonable cost of that investigation.

5. The information required to be obtained pursuant to subsections 2 and 3 must be requested concerning an:

(a) Employee of an applicant or licensee, resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older not later than 3 days after the employee is hired, the residency begins or the participant begins participating in the program, and then at least once every 6 years thereafter.

(b) Applicant at the time that an application is submitted for licensure, and then at least once every 6 years after the license is issued.

Sec. 6. NRS 432A.175 is hereby amended to read as follows:

432A.175 1. Every applicant ~~[.]~~ ***for a license to operate a child care facility,*** licensee and employee of ***such*** an applicant or licensee, and every resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older, shall submit to the Bureau, or to the person or agency designated by the Bureau, ***to enable the Bureau to conduct an investigation pursuant to NRS 432A.170,*** a:

(a) Complete set of fingerprints and a written authorization for the Bureau or its designee 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]~~

(b) Written statement detailing any prior criminal convictions ~~[,~~

~~→ to enable the Bureau to conduct an investigation pursuant to NRS 432A.170.]~~ ***; and***

(c) Written authorization for the Bureau to obtain any information that may be available from the Statewide Central Registry for the Collection of Information Concerning the Abuse or Neglect of a Child established pursuant to NRS 432.100.

2. If an employee of an applicant ***for a license to operate a child care facility*** or licensee, or ~~[such]~~ a resident ***of a child care facility*** or participant ~~[,]~~ ***in an outdoor youth program who is 18 years of age or older,*** has been convicted of any crime listed in subsection 2 of NRS 432A.170 ~~[,]~~ ***or has had a substantiated report of child abuse or neglect filed against him,*** the Bureau shall immediately notify the applicant or licensee ~~[.]~~ ***, who shall then comply with the provisions of section 2 of this act.***

3. An applicant for a license to operate a child care facility or licensee shall notify the Bureau within 2 days after receiving notice that:

(a) The applicant, licensee or an employee of the applicant or licensee, or a resident of the child care facility or participant in an outdoor youth program who is 18 years of age or older, or a facility or program operated by the applicant or licensee, is the subject of a lawsuit or any disciplinary proceeding; or

(b) The applicant or licensee, an employee, a resident or participant has been charged with a crime listed in subsection 2 of NRS 432A.170 or is being investigated for child abuse or neglect.

Sec. 7. NRS 432A.190 is hereby amended to read as follows:

432A.190 1. The Bureau may deny an application for a license ***to operate a child care facility*** or may suspend or revoke ~~[any license issued under the provisions of this chapter]~~ ***such a license*** upon any of the following grounds:

(a) Violation by the applicant or licensee or an employee of the applicant or licensee of any of the provisions of this chapter or of any other law of this State or of the standards and other regulations adopted thereunder.

(b) Aiding, abetting or permitting the commission of any illegal act.

(c) Conduct inimical to the public health, morals, welfare and safety of the people of the State of Nevada in the maintenance and operation of the child care facility for which a license is issued.

(d) Conduct or practice detrimental to the health or safety of the occupants or employees of the child care facility, or the clients of the outdoor youth program.

(e) Conviction of any crime listed in subsection 2 of NRS 432A.170 committed by the applicant or licensee or an employee of the applicant or licensee, or by a resident of the child care facility or participant in the outdoor youth program who is 18 years of age or older.

(f) Failure to comply with the provisions of NRS 432A.178.

(g) Substantiation of a report of child abuse or neglect made against the applicant or licensee.

(h) Conduct which is found to pose a threat to the health or welfare of a child or which demonstrates that the applicant or licensee is otherwise unfit to work with children.

(i) Violation by the applicant or licensee of the provisions of section 2 of this act by continuing to employ a person, allowing a resident to continue to reside in the child care facility or allowing a participant in an outdoor youth program to continue to participate in the program if the employee, or the resident or participant who is 18 years of age or older, has been convicted of a crime listed in subsection 2 of NRS 432A.170 or has had a substantiated report of child abuse or neglect made against him.

2. In addition to the provisions of subsection 1, the Bureau may revoke a license to operate a child care facility if, with respect to that facility, the licensee that operates the facility, or an agent or employee of the licensee:

(a) Is convicted of violating any of the provisions of NRS 202.470;

(b) Is ordered to but fails to abate a nuisance pursuant to NRS 244.360, 244.3603 or 268.4124; or

(c) Is ordered by the appropriate governmental agency to correct a violation of a building, safety or health code or regulation but fails to correct the violation.

3. The Bureau shall maintain a log of any complaints that it receives relating to activities for which the Bureau may revoke the license to operate a child care facility pursuant to subsection 2. The Bureau shall provide to a child care facility:

(a) A summary of a complaint against the facility if the investigation of the complaint by the Bureau either substantiates the complaint or is inconclusive;

(b) A report of any investigation conducted with respect to the complaint; and

(c) A report of any disciplinary action taken against the facility.

➥ The facility shall make the information available to the public pursuant to NRS 432A.178.

4. ***In addition to any other disciplinary action, the Bureau may impose an administrative fine for a violation of any provision of this chapter or any regulation adopted pursuant thereto. The Bureau shall afford to any person so fined an opportunity for a hearing. Any money collected for the imposition of such a fine must be credited to the State General Fund.***

5. On or before February 1 of each odd-numbered year, the Bureau shall submit to the Director of the Legislative Counsel Bureau a written report setting forth, for the previous biennium:

(a) Any complaints included in the log maintained by the Bureau pursuant to subsection 3; and

(b) Any disciplinary actions taken by the Bureau pursuant to subsection 2.

Sec. 8. NRS 432A.220 is hereby amended to read as follows:

432A.220 Any person who operates a child care facility without a license issued pursuant to NRS 432A.131 to 432A.220, inclusive, ***and sections 2 and 3 of this act*** is guilty of a misdemeanor.

Sec. 9. The Bureau of Services for Child Care of the Division of Child and Family Services of the Department of Health and Human Services is not required to obtain the information required pursuant to subsections 2 and 3 of section 5 of this act concerning a person who, on October 1, 2009, is a licensee, employee of a licensee, or resident of a child care facility or participant in an outdoor youth program who is 18 years of age or older until 6 years after the license was issued or renewed, or from the date of employment of an employee, residency of a resident or participation of a participant.

Assemblywoman Smith moved that the Assembly concur in the Senate amendment to Assembly Bill No. 89.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 24.

The following Senate amendment was read:

Amendment No. 599.

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 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 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 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 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 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.

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. (Deleted by amendment.)

Sec. 7. (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 that the Assembly do not concur in the Senate amendment to Assembly Bill No. 24.

Remarks by Assemblyman Conklin.

Motion carried.

Bill ordered transmitted to the Senate.

Assembly Bill No. 274.

The following Senate amendment was read:

Amendment No. 596.

AN ACT relating to retail installment sales; defining certain terms and revising certain definitions relating to retail installment sales; requiring that certain disclosures be made to a retail buyer; requiring that certain provisions relating to default be included in credit applications or contracts for the sale of vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law contains various provisions governing retail installment sales, including sales of motor vehicles. (Chapter 97 of NRS) This bill incorporates into Nevada law certain provisions of the federal Truth in Lending Act of 1968. (15 U.S.C. 1601, et seq.)

Sections 1, 3 and 4 of this bill: (1) add a new definition of the term "credit"; (2) revise the existing definition of the term "retail installment transaction" to include an installment sale which does not provide for a finance charge; and (3) revise the definition of the terms "retail seller" or "seller" to include a person **, other than a financial institution,** who engages in a transaction which may be payable in more than four installments. (NRS 97.115, 97.125)

Existing law requires a retail installment contract to be delivered or mailed to the buyer before the date of the first installment. (NRS 97.175) **Section 5** of this bill requires the seller to make certain disclosures in accordance with the federal Act before any credit is extended. **Section 6** of this bill requires forms for the application of credit and contracts to be used in the sale of vehicles to contain a provision, patterned after 5.109 of the Uniform Consumer Credit Code, relating to default on the part of the buyer. (NRS 97.299)

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

Section 1. Chapter 97 of NRS is hereby amended by adding thereto a new section to read as follows:

"Credit" means the right granted by a seller to a buyer to defer payment of debt or to incur debt and defer its payment.

Sec. 2. NRS 97.015 is hereby amended to read as follows:

97.015 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 97.017 to 97.145, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 97.115 is hereby amended to read as follows:

97.115 "Retail installment transaction" means a transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract or a retail charge agreement which ~~[~~provides~~]~~ ***may provide*** for a finance charge and under which the buyer agrees to pay the total of payments in one or more installments.

Sec. 4. NRS 97.125 is hereby amended to read as follows:

97.125 ***1.*** "Retail seller" or "seller" means:

~~[1.]~~ ***(a)*** A person engaged in the business of selling or leasing goods or services to retail buyers or a licensee, franchisee, assignee or corporate affiliate or subsidiary of such a person; ~~[or]~~

~~[2.]~~ ***(b)*** A person, other than a financial institution, who enters into agreements prescribing the terms for the extension of credit pursuant to which the person may, with the buyer's consent, purchase or acquire one or more obligations of the buyer to a retail seller if the purchase, lease, loan or other obligation to be paid in accordance with the agreement is evidenced by a sales slip or memorandum ~~[.]~~ ***; or***

~~[3.]~~ ***(c) A person , other than a financial institution, who regularly extends, whether in connection with sales or leases of goods or services, credit which is payable by agreement in more than four installments or for which the payment of a finance charge may be required.***

2. As used in this section, "financial institution" means:

(a) A bank, credit union, savings institution or trust company organized under, or supervised pursuant to, the laws of the United States or of any state, or any affiliate or subsidiary thereof; or

(b) A person licensed pursuant to chapter 675 of NRS.

Sec. 5. NRS 97.175 is hereby amended to read as follows:

97.175 ~~[The retail seller shall deliver to the retail buyer, or mail to him at his address shown on the retail installment contract, a copy of the contract as accepted by the seller, prior to the due date of the first installment.]~~

1. Before any credit is extended, the retail seller shall provide to the retail buyer any disclosures required to be made by a creditor pursuant to 15 U.S.C. 1638.

2. Until the seller ~~[~~does so~~]~~ ***provides the required disclosures pursuant to subsection 1,*** the buyer ~~[~~shall be~~]~~ ***is*** obligated to pay only the cash sales price.

3. Any acknowledgment by the buyer of delivery of a copy of the contract ~~[~~shall~~]~~ ***must*** be in a size equal to at least 10-point bold type and, if contained in the contract, ~~[~~shall~~]~~ ***must*** appear directly above the buyer's signature.

Sec. 6. 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) ***Contain a provision that default on the part of the buyer is only enforceable to the extent that:***

(1) The buyer fails to make a payment as required by the agreement; or

(2) The prospect of payment, performance or realization of collateral is significantly impaired. The burden of establishing the prospect of significant impairment is on the seller.

(f) 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. 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.

Sec. 7. 1. This section and sections 1 to 5, inclusive, of this act become effective upon passage and approval.

2. Section 6 of this act becomes effective on October 1, 2009.

Assemblyman Conklin moved that the Assembly concur in the Senate amendment to Assembly Bill No. 274.

Remarks by Assemblyman Conklin.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 193.

The following Senate amendment was read:

Amendment No. 680.

SUMMARY—Provides for reporting by certain governmental entities concerning ~~[the collection of fees and taxes.]~~ **certain financial information.** (BDR S-243)

AN ACT relating to state financial administration; requiring certain governmental entities to report periodically to the Interim Finance Committee concerning ~~[the collection and abatement of fees and taxes;]~~ **certain financial information;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

This bill requires certain governmental entities of this State, beginning with the fourth quarter of Fiscal Year 2008-2009 and concluding with the third quarter of Fiscal Year 2010-2011, to report to the Interim Finance Committee within 60 days after the end of the immediately preceding fiscal quarter ~~[regarding]~~ **certain financial information, including** the taxes and fees that: (1) were legally due to be paid to the entity; (2) the entity was able to collect; and (3) the entity did not collect or was otherwise unable to collect, to the extent that such information is available to the entity. This bill also requires the Commission on Economic Development to report to the Interim Finance Committee on the same time schedule regarding each tax or fee that the Commission abated, exempted or otherwise waived and the duration of the applicable abatement, exemption or waiver. All reports required to be filed pursuant to this bill are required to be submitted on a form provided by the Director of the Legislative Counsel Bureau.

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

Section 1. 1. Beginning on July 1, 2009, and extending through April 15, 2011, the following governmental entities shall, within 60 days after the end of the immediately preceding fiscal quarter, file with the Interim Finance Committee a report that complies with the requirements of subsection 2:

(a) The Department of Taxation.

(b) The State Gaming Control Board.

(c) The Department of Motor Vehicles.

(d) The Department of Employment, Training and Rehabilitation.

(e) The Department of Business and Industry.

(f) The Office of the State Controller.

(g) The Office of the Secretary of State.

2. Each report required to be filed pursuant to subsection 1 must be submitted on a form provided by the Director of the Legislative Counsel Bureau and include the following components:

(a) A statement of all taxes and fees that were legally due to be paid to the particular governmental entity in the immediately preceding fiscal quarter;

(b) A statement of the total of all taxes and fees that the particular governmental entity actually collected in the immediately preceding fiscal quarter;

(c) A statement of all taxes and fees that the particular governmental entity, in the immediately preceding fiscal quarter, failed to collect or otherwise did not collect as the result of an abatement, exemption or another reason, to the extent that such information is available to the governmental entity;

(d) A statement of ~~[the]~~ **:**

(1) The total amount of all taxes and fees that remain legally due to be paid to the particular governmental entity for any past fiscal years up to and including the immediately preceding fiscal quarter of the current fiscal year; **and**

(2) Except if the entity is the Office of the State Controller, the portion of the total amount described in subparagraph (1) that the entity assigned to the State Controller for collection; and

(e) Such other information relating to the provisions of this section as may be requested by the Director of the Legislative Counsel Bureau.

3. In addition to the components set forth in subsection 2, the Department of Taxation shall include in its report filed pursuant to subsection 1 a list of the special districts to which an exemption from the requirements of the Local Government Budget and Finance Act for the filing of certain budget documents and audit reports was granted pursuant to NRS 354.475.

Sec. 2. 1. Beginning on July 1, 2009, and extending through April 15, 2011, the Commission on Economic Development shall, within 60 days after the end of the immediately preceding fiscal quarter, file with the Interim Finance Committee a report that complies with the requirements of subsection 2.

2. Each report required to be filed pursuant to subsection 1 must be submitted on a form provided by the Director of the Legislative Counsel Bureau and include a description of every abatement, exemption or other type of waiver that the Commission on Economic Development granted with respect to a tax or fee during the immediately preceding fiscal quarter. The description must include, without limitation:

(a) An estimate of the total amount of money the payment of which was abated, exempted or otherwise waived;

(b) The duration of the abatement, exemption or other type of waiver; and

(c) Such other information relating to the provisions of this section as may be requested by the Director of the Legislative Counsel Bureau.

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

Assemblyman Arberry moved that the Assembly concur in the Senate amendment to Assembly Bill No. 193.

Remarks by Assemblyman Arberry.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 263.

The following Senate amendment was read:

Amendment No. 662.

SUMMARY—Authorizes the Aging Services Division of the Department of Health and Human Services to establish a program of all-inclusive care for the elderly. ~~[in certain counties.]~~ (BDR 38-509)

AN ACT relating to public health; authorizing the Aging Services Division of the Department of Health and Human Services to establish a program of all-inclusive care for the elderly; ~~[in certain counties;]~~ authorizing the Division to adopt regulations to carry out the program; authorizing the Division to establish a schedule of fees for services provided under the program; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Aging Services Division of the Department of Health and Human Services to establish and administer a program to provide the community-based services necessary to enable a frail elderly person to remain in his home and avoid placement in a facility for long-term care. (NRS 427A.250) **Section 1** of this bill authorizes the Division to establish a community-based and in-home program of all-inclusive care for the elderly, commonly referred to as a PACE program, in accordance with the provisions of federal law authorizing such programs. (42 U.S.C. 1396u-4; 42 C.F.R. Part 460) If the Division establishes a PACE program, the program ~~[must]~~ **may** be established in any county in this State. ~~[whose population is 100,000 or more but less than 400,000 (currently Washoe County).]~~ **Section 1** authorizes the Division to adopt regulations necessary to establish and administer the program. **Section 1** also requires the Director of the Department, if the Division wishes to establish a PACE program, to submit

to the Secretary of Health and Human Services any amendment to the State Plan for Medicaid necessary to enable the Division to establish the PACE program and to revise the program from time to time.

Section 2 of this bill authorizes the Division to contract with public or private entities to carry out the PACE program. (NRS 427A.260) **Section 3** of this bill authorizes the Division to apply for and accept any money available to establish and administer the program. **Section 3** further authorizes the Division to establish a schedule of fees to be charged for the provision of services under the program. (NRS 427A.270)

Section 4 of this bill clarifies that the PACE program established pursuant to **section 1** of this bill is in addition to any test program or demonstration program established by the Division concerning the various ways in which community-based services and all-inclusive care can be provided to frail elderly persons. (NRS 427A.280)

Section 7 of this bill requires the Division to submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or the Legislative Committee on Health Care semiannual reports on the progress of the Division in establishing a PACE program.

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

Section 1. Chapter 427A of NRS is hereby amended by adding thereto a new section to read as follows:

1. In addition to any program established pursuant to NRS 427A.250, the Division may establish and administer a program of all-inclusive care for the elderly, commonly known as a PACE program. The program may be carried out solely by the Division or in cooperation with another state agency, the Federal Government or any local government.

2. A program established pursuant to subsection 1 ~~[must:~~

~~(a) Comply]~~ :

(a) Must comply with the provisions of 42 U.S.C. 1396u-4, 42 C.F.R. Part 460 and any other federal regulations governing programs of all-inclusive care for the elderly; and

(b) ~~[Be]~~ May be established in any county in this State . ~~[whose population is 100,000 or more but less than 400,000.]~~

3. The Division may adopt regulations necessary to establish and administer the program.

4. If the Division wishes to establish a program pursuant to subsection 1, the Director shall submit to the Secretary of Health and Human Services any amendment to the State Plan for Medicaid necessary to enable the Division to establish the program and to revise the program from time to time.

Sec. 2. NRS 427A.260 is hereby amended to read as follows:

427A.260 1. The Division may use personnel of the Division or it may contract with any appropriate public or private agency, organization or

institution to provide ***a program of all-inclusive care for the elderly and to provide*** the community-based services necessary to enable a frail elderly person to remain in his home.

2. Any such contract must:

(a) Include a description of the type of service to be provided;

(b) ~~[~~Specify~~]~~ ***For:***

(1) A program of all-inclusive care for the elderly, specify the capitation rate to be paid for all-inclusive care for the elderly and the method of payment; and

(2) Any other community-based services, specify the price to be paid for each service and the method of payment; and

(c) Specify the criteria to be used to evaluate the provision of the service.

Sec. 3. NRS 427A.270 is hereby amended to read as follows:

427A.270 1. The Division may apply for, accept and expend any federal or private grant of money or other type of assistance that becomes available to carry out the provisions of NRS 427A.250 to 427A.280, inclusive ~~[.]~~ ***, and section 1 of this act.*** Any money received pursuant to this section must be deposited with the State Treasurer and accounted for separately in the State General Fund.

2. The Division shall, with the approval of the Commission and Director, establish a schedule of fees to be charged and collected for any service provided pursuant to NRS 427A.250 to 427A.280, inclusive ~~[.]~~ ***, and section 1 of this act.***

Sec. 4. NRS 427A.280 is hereby amended to read as follows:

427A.280 ~~[~~The~~]~~ ***In addition to the program established pursuant to section 1 of this act, the*** Division may initiate projects to test and demonstrate various ways of providing the community-based services ***and all-inclusive care*** necessary to enable a frail elderly person to remain in his home.

Sec. 5. NRS 427A.310 is hereby amended to read as follows:

427A.310 1. Except as otherwise provided in subsection 2, the Ombudsman for Aging Persons shall provide assistance to persons who are 60 years of age or older and do not reside in facilities for long-term care. The assistance must include at least the:

(a) Coordination of resources and services available to aging persons within their respective communities, including the services provided through ~~[~~the~~]~~ ***a*** program established pursuant to NRS 427A.250 ~~[.]~~ ***or section 1 of this act;***

(b) Dissemination of information to aging persons on issues of national and local interest, including information regarding the services of the Ombudsman and the existence of groups of aging persons with similar interests and concerns;

(c) Publication of a guide for use in each county of this State regarding the resources and services available for aging persons in the respective county; and

(d) Advocation of issues relating to aging persons.

2. Upon request by the Administrator, the Ombudsman for Aging Persons shall temporarily perform the duties of advocates for residents of facilities for long-term care specified in NRS 427A.125 to 427A.165, inclusive.

Sec. 6. NRS 123.259 is hereby amended to read as follows:

123.259 1. Except as otherwise provided in subsection 2, a court of competent jurisdiction may, upon a proper petition filed by a spouse or the guardian of a spouse, enter a decree dividing the income and resources of a husband and wife pursuant to this section if one spouse is an institutionalized spouse and the other spouse is a community spouse.

2. The court shall not enter such a decree if the division is contrary to a premarital agreement between the spouses which is enforceable pursuant to chapter 123A of NRS.

3. Unless modified pursuant to subsection 4 or 5, the court may divide the income and resources:

(a) Equally between the spouses; or

(b) By protecting income for the community spouse through application of the maximum federal minimum monthly maintenance needs allowance set forth in 42 U.S.C. 1396r-5(d)(3)(C) and by permitting a transfer of resources to the community spouse an amount which does not exceed the amount set forth in 42 U.S.C. 1396r-5(f)(2)(A)(ii).

4. If either spouse establishes that the community spouse needs income greater than that otherwise provided under paragraph (b) of subsection 3, upon finding exceptional circumstances resulting in significant financial duress and setting forth in writing the reasons for that finding, the court may enter an order for support against the institutionalized spouse for the support of the community spouse in an amount adequate to provide such additional income as is necessary.

5. If either spouse establishes that a transfer of resources to the community spouse pursuant to paragraph (b) of subsection 3, in relation to the amount of income generated by such a transfer, is inadequate to raise the income of the community spouse to the amount allowed under paragraph (b) of subsection 3 or an order for support issued pursuant to subsection 4, the court may substitute an amount of resources adequate to provide income to fund the amount so allowed or to fund the order for support.

6. A copy of a petition for relief under subsection 4 or 5 and any court order issued pursuant to such a petition must be served on the Administrator of the Division of Welfare and Supportive Services of the Department of Health and Human Services when any application for medical assistance is made by or on behalf of an institutionalized spouse. ~~[He]~~ ***The Administrator*** may intervene no later than 45 days after receipt by the Division of Welfare and Supportive Services of the Department of Health and Human Services of an application for medical assistance and a copy of the petition and any order entered pursuant to subsection 4 or 5, and may move to modify the order.

7. A person may enter into a written agreement with his spouse dividing their community income, assets and obligations into equal shares of separate income, assets and obligations of the spouses. Such an agreement is effective only if one spouse is an institutionalized spouse and the other spouse is a community spouse or a division of the income or resources would allow one spouse to qualify for services under NRS 427A.250 to 427A.280, inclusive ~~[.]~~ ***, and section 1 of this act.***

8. An agreement entered into or decree entered pursuant to this section may not be binding on the Division of Welfare and Supportive Services of the Department of Health and Human Services in making determinations under the State Plan for Medicaid.

9. As used in this section, "community spouse" and "institutionalized spouse" have the meanings respectively ascribed to them in 42 U.S.C. 1396r-5(h).

Sec. 7. The Aging Services Division of the Department of Health and Human Services shall, on or before March 1 and October 1 of each year, submit a report on the progress of the Division in establishing a PACE program pursuant to section 1 of this act to the Director of the Legislative Counsel Bureau for transmittal to the Legislature or, if the Legislature is not in session, the Legislative Committee on Health Care.

Assemblywoman Smith moved that the Assembly concur in the Senate amendment to Assembly Bill No. 263.

Remarks by Assemblywoman Smith.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 109.

The following Senate amendment was read:

Amendment No. 620.

AN ACT relating to motor vehicles; requiring that license plates without distinguishing marks be furnished for two vehicles used by the office of the county coroner; ~~[authorizing]~~ **deleting provisions which prohibit** the Department of Motor Vehicles ~~[to issue certain]~~ **from issuing** special license plates **for the support and enhancement of parks, recreation facilities and programs in the City of Reno unless the Department receives at least 1,000 applications for the issuance of those plates before May 29, 2009; authorizing the Department to issue certain special license plates** for use on motorcycles; prescribing the fees for special license plates for use on vehicles other than passenger cars and light commercial vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that license plates furnished for certain exempt vehicles maintained for and used by certain governmental entities must be free of distinguishing marks which would otherwise identify the vehicle as a governmental vehicle. (NRS 482.368) **Section ~~[1]~~ 1.3** of this bill adds two

vehicles used by the office of a county coroner to the list of vehicles for which license plates without a distinguishing mark must be furnished.

Existing law authorizes the Department of Motor Vehicles to issue special license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno if the Department receives at least 1,000 applications for the issuance of the special license plates before May 29, 2009. (NRS 482.379375) Sections 1 and 1.7 of this bill delete the provisions which authorize the Department to issue such special plates only if the Department receives at least 1,000 applications before May 29, 2009.

Under existing law, if the Department ~~[of Motor Vehicles]~~ issues special license plates for use on a passenger car or light commercial vehicle and if those special license plates generate financial support for a charitable organization, the Department is authorized to issue the special license plates for use on a trailer or other type of vehicle that is not a passenger car or light commercial vehicle, but is prohibited from issuing the special license plates for use on a motorcycle or heavy commercial vehicle. (NRS 482.3824) Effective July 1, 2010, **section 2** of this bill removes the prohibition against the Department issuing such special license plates for use on motorcycles and provides further that the fees for special license plates issued for use on vehicles other than passenger cars or light commercial vehicles must be the same as if the special license plates were issued for use on a passenger car or light commercial vehicle.

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

Section 1. **NRS 482.36705 is hereby amended to read as follows:**

482.36705 1. If a new special license plate is authorized by an act of the Legislature after January 1, 2003, ***other than a special license plate that is authorized pursuant to NRS 482.379375,*** the Legislature will direct that the license plate not be designed, prepared or issued by the Department unless the Department receives at least 1,000 applications for the issuance of that plate within 2 years after the effective date of the act of the Legislature that authorized the plate.

2. In addition to the requirements set forth in subsection 1, if a new special license plate is authorized by an act of the Legislature after July 1, 2005, the Legislature will direct that the license plate not be issued by the Department unless its issuance complies with subsection 2 of NRS 482.367008.

3. In addition to the requirements set forth in subsections 1 and 2, if a new special license plate is authorized by an act of the Legislature after January 1, 2007, the Legislature will direct that the license plate not be designed, prepared or issued by the Department unless the Commission on Special License Plates approves the application for the authorized plate pursuant to NRS 482.367004.

~~[Section 1.]~~ ***Sec. 1.3.*** NRS 482.368 is hereby amended to read as follows:

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

2. License plates furnished for:

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

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

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

(d) ***Two vehicles used by the office of the county coroner of any county which has created that office pursuant to NRS 244.163; and***

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

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

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

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

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

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

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

Sec. 1.7. **NRS 482.379375 is hereby amended to read as follows:**

482.379375 1. Except as otherwise provided in this subsection, the Department, in cooperation with the Reno Recreation and Parks Commission or its successor, shall design, prepare and issue license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno, using any colors and designs that the Department deems appropriate. The Department shall not design, prepare or issue the license plates unless:

(a) The Commission on Special License Plates approves the design, preparation and issuance of those plates as described in NRS 482.367004; and

(b) The Department receives at least 1,000 applications for the issuance of those plates **.** ~~[within 2 years after the effective date of this act.]~~

2. If the Commission on Special License Plates approves the design, preparation and issuance of license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno pursuant to subsection 1, and the Department receives at least 1,000 applications for the issuance of the license plates, the Department shall issue those plates for a passenger car or light commercial vehicle upon application by a person who is entitled to license plates pursuant to NRS 482.265 and who otherwise complies with the requirements for registration and licensing pursuant to this chapter. A person may request that personalized prestige license plates issued pursuant to NRS 482.3667 be combined with license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno if that person pays the fees for the personalized prestige license plates in addition to the fees for the license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno pursuant to subsections 3 and 4.

3. The fee for license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno is $35, in addition to all other applicable registration and license fees and governmental services taxes. The license plates are renewable upon the payment of $10.

4. In addition to all other applicable registration and license fees and governmental services taxes and the fee prescribed in subsection 3, a person who requests a set of license plates for the support and enhancement of parks, recreation facilities and programs in the City of Reno must pay for the initial issuance of the plates an additional fee of $25 and for each renewal of the plates an additional fee of $20 to be distributed pursuant to subsection 5.

5. The Department shall deposit the fees collected pursuant to subsection 4 with the State Treasurer for credit to the State General Fund. The State Treasurer shall, on a quarterly basis, distribute the fees deposited pursuant to this section to the City Treasurer of the City of Reno to be used to pay for the support and enhancement of parks, recreation facilities and programs in the City of Reno.

6. If, during a registration year, the holder of license plates issued pursuant to the provisions of this section disposes of the vehicle to which the plates are affixed, the holder shall:

(a) Retain the plates and affix them to another vehicle that meets the requirements of this section if the holder pays the fee for the transfer of the registration and any registration fee or governmental services tax due pursuant to NRS 482.399; or

(b) Within 30 days after removing the plates from the vehicle, return them to the Department.

Sec. 2. NRS 482.3824 is hereby amended to read as follows:

482.3824 1. Except as otherwise provided in NRS 482.38279, with respect to any special license plate that is issued pursuant to NRS 482.3667 to 482.3825, inclusive, and for which ~~[an additional fee is]~~ ***additional fees are*** imposed for the issuance of the special license plate to generate financial support for a charitable organization:

(a) The Director shall, at the request of the charitable organization that is benefited by the particular special license plate:

(1) Order the design and preparation of souvenir license plates, the design of which must be substantially similar to the particular special license plate; and

(2) Issue such souvenir license plates, for a fee established pursuant to NRS 482.3825, only to the charitable organization that is benefited by the particular special license plate. The charitable organization may resell such souvenir license plates at a price determined by the charitable organization.

(b) The Department may, except as otherwise provided in this paragraph and after the particular special license plate is approved for issuance, issue the special license plate for a trailer ***, motorcycle*** or other type of vehicle that is not a passenger car or light commercial vehicle, excluding ~~[motorcycles and]~~ vehicles required to be registered with the Department pursuant to NRS

706.801 to 706.861, inclusive, upon application by a person who is entitled to license plates pursuant to NRS 482.265 ***or 482.272*** and who otherwise complies with the requirements for registration and licensing pursuant to this chapter ~~[.]~~ ***or chapter 486 of NRS.*** The Department may not issue a special license plate for such other types of vehicles if the Department determines that the design or manufacture of the plate for those other types of vehicles would not be feasible. In addition, if the Department incurs additional costs to manufacture a special license plate for such other types of vehicles, including, without limitation, costs associated with the purchase, manufacture or modification of dies or other equipment necessary to manufacture the special license plate for such other types of vehicles, those additional costs must be paid from private sources without any expense to the State of Nevada.

2. ***If, as authorized pursuant to paragraph (b) of subsection 1, the Department issues a special license plate for a trailer, motorcycle or other type of vehicle that is not a passenger car or light commercial vehicle, the Department shall charge and collect for the issuance and renewal of such a plate the same fees that the Department would charge and collect if the other type of vehicle was a passenger car or light commercial vehicle. As used in this subsection, "fees" does not include any applicable registration or license fees or governmental services taxes.***

3. As used in this section ~~[, "charitable]~~ ***:***

(a) "Additional fees" has the meaning ascribed to it in NRS 482.38273.

(b) "Charitable organization" means a particular cause, charity or other entity that receives money from the imposition of ~~[an additional fee]~~ ***additional fees*** in connection with the issuance of a special license plate pursuant to NRS 482.3667 to 482.3825, inclusive. The term includes the successor, if any, of a charitable organization.

Sec. 3. NRS 482.38274 is hereby amended to read as follows:

482.38274 "Charitable organization" has the meaning ascribed to it in ~~[subsection 2 of]~~ NRS 482.3824.

Sec. 4. 1. This section and ~~[section]~~ **sections** 1 **and 1.7 of this act become effective upon passage and approval.**

2. Section 1.3 of this act ~~[become]~~ **becomes** effective on July 1, 2009.

~~[2.]~~ **3.** Sections 2 and 3 of this act become effective on July 1, 2010.

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 109.

Remarks by Assemblymen Atkinson and Anderson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 333.

The following Senate amendment was read:

Amendment No. 665.

AN ACT relating to 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 3** of this bill ~~**[**: (1) requires such information to be provided 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. 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 ~~[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 ~~[.]~~ ***;***

(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. 5. 1. This section and sections 1, 2 and 3 of this act become effective on July 1, 2009.

2. Section 4 of this act becomes effective on October 1, 2010.

Assemblyman Atkinson moved that the Assembly concur in the Senate amendment to Assembly Bill No. 333.

Remarks by Assemblyman Atkinson.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

GENERAL FILE AND THIRD READING

Assembly Bill No. 355.

Bill read third time.

Remarks by Assemblyman Goicoechea.

Roll call on Assembly Bill No. 355:

YEAS—42.

NAYS—None.

Assembly Bill No. 355 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 108.

Bill read third time.

The following amendment was proposed by Assemblymen Carpenter and Claborn:

Amendment No. 862.

AN ACT relating to mining claims; providing that a hollow metal post which is used as a valid legal monument to mark the boundaries of a lode mining claim must meet certain requirements; requiring the replacement of durable plastic pipe on lode mining claims; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the use of hollow metal posts and durable plastic pipe to define the boundaries of a lode mining claim if the post or pipe is securely capped with no open perforations. (NRS 517.030) This bill provides that a hollow metal post which is used to mark the boundaries of a lode mining claim must be securely capped or crimped in a manner that securely closes the top of the post and have no open perforations. This bill also provides that any durable plastic pipe used to mark a claim must be replaced on or before November 1, 2011. **If replaced on or before that date, the durable plastic pipe must be taken from the lode mining claim and disposed of in a lawful manner.** After that date, any such durable plastic pipe may be removed and placed adjacent to the location from which it is removed.

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

Section 1. NRS 517.030 is hereby amended to read as follows:

517.030 1. Within 60 days after posting the notice of location, the locator of a lode mining claim shall distinctly define the boundaries of the claim by placing a valid legal monument at each corner of the claim. A valid legal monument may be created by:

(a) ~~[Removing the top of]~~ ***Blazing and marking*** a tree, which has a diameter of not less than 4 inches, not less than 3 feet above the ground ***;*** ~~[,~~ ~~and blazing and marking it;]~~

(b) Capping a rock in place with smaller stones so that the rock and stones have a height of not less than 3 feet; or

(c) Setting a wooden or metal post or a stone.

2. If a wooden post is used, the dimensions of the post must be at least 1 1/2 inches by 1 1/2 inches by 4 feet, and the post must be set 1 foot in the ground.

3. If a metal post is used, the post must be at least 2 inches in diameter by 4 feet in length ~~[,]~~ and ~~[it must]~~ be set 1 foot in the ground. If the metal post is hollow, it must ~~[be]~~ ***:***

(a) Be securely capped ~~[.]~~ ***or crimped in a manner that securely closes the top of the post; and***

(b) Have no open perforations.

4. If it is practically impossible, because of bedrock or precipitous ground, to sink a post, it may be placed in a mound of earth or stones. If the proper placing of a monument is impracticable or dangerous to life or limb, the monument may be placed at the nearest point properly marked to designate its right place.

5. If a stone is used which is not a rock in place, the stone must be not less than 6 inches in diameter and 18 inches in length ~~[,]~~ and ~~[it must]~~ be set with two-thirds of its length in the top of a mound of earth or stone 3 feet in diameter and 2 1/2 feet in height.

6. ~~[Durable]~~ ***Except as otherwise provided in subsection 7, a durable*** plastic pipe that was set before March 16, 1993, for the purpose of defining the boundaries of a lode mining claim shall be deemed to constitute a valid legal monument if:

(a) The pipe is at least 3 inches in diameter by 4 feet in length ~~[,]~~ and ~~[the pipe]~~ is set 1 foot in the ground; and

(b) The pipe is securely capped with no open perforations.

7. The locator of a lode mining claim located before March 16, 1993, ***the boundaries of which are defined by a durable plastic pipe described in subsection 6,*** or his successor in interest, ~~[may]~~ ***shall, on or before November 1, 2011,*** remove the durable plastic pipe ~~[described in subsection 6]~~ and replace the monument of location and the corner monuments with valid legal monuments in the manner prescribed pursuant to subsection 1. ~~[The]~~ ***If the*** locator or his successor in interest ~~[is not required to replace a monument located at the center of a side line. Within]~~ ***replaces the durable plastic pipe on or before that date, the locator or his successor in interest shall, within*** 60 days after the replacement, ~~[the locator of the lode mining claim, or his successor in interest, shall]~~ record a notice of remonumentation with the county recorder of the county in which the claim is located and pay the fee required by NRS 247.305. The notice must contain:

(a) The name of the claim;

(b) The book and page number or the document number of the certificate of location or the most recent amendment to the certificate of location;

(c) The book and page number or the document number of the map filed pursuant to NRS 517.040; and

(d) A description of the monument used to replace each monument that is removed.

➥ The notice may include more than one claim. ***Any durable plastic pipe that is removed pursuant to this subsection must be taken from the lode mining claim and disposed of in a lawful manner.***

8. ***After November 1, 2011, any durable plastic pipe that is not removed pursuant to subsection 7 may be removed and placed on the ground immediately adjacent to the location from which it is removed to preserve evidence of its use as a monument for the lode mining claim.***

9. The replacement of ***a*** durable plastic pipe or the recording of a notice pursuant to subsection 7 does not:

(a) Amend or otherwise affect the legal validity of the claim for which the monuments were created;

(b) Modify the date of location of the claim; or

(c) Require the filing of an additional or amended map pursuant to NRS 517.040.

Sec. 2. This act becomes effective on July 1, 2009.

Assemblyman Claborn moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 60.

Bill read third time.

Remarks by Assemblyman Hambrick.

Roll call on Senate Bill No. 60:

YEAS—42.

NAYS—None.

Senate Bill No. 60 having received a constitutional 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 1:09 p.m.

ASSEMBLY IN SESSION

At 1:15 p.m.

Madam Speaker presiding.

Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 415 be taken from its position on the General File and placed at the top of the General File.

Motion carried.

Assemblyman Oceguera moved that Senate Bill No. 234 be taken from its position on the General File and placed at the top of the General File.

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 1:17 p.m.

ASSEMBLY IN SESSION

At 1:20 p.m.
Madam Speaker presiding.
Quorum present.

Assemblyman Oceguera moved that Senate Bill No. 415 be taken from the General File and placed on the Chief Clerk's desk.
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 234.
Bill read third time.
Remarks by Assemblyman Hardy.
Roll call on Senate Bill No. 234:
YEAS—34.
NAYS—Christensen, Cobb, Goedhart, Gustavson, Hambrick, McArthur, Settelmeyer, Woodbury—8.
Senate Bill No. 234 having received a two-thirds majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that Senate Bill No. 245 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 246 be taken from the Chief Clerk's desk and placed at the top of the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 246.
Bill read third time.
The following amendment was proposed by Assemblyman Atkinson:
Amendment No. 802.
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; providing remedies for a purchaser if a used vehicle does not conform with the implied warranty of merchantability; requiring a contract for the sale of a used vehicle by a used vehicle dealer to contain certain statements;** prohibiting a manufacturer from requiring a dealer to alter substantially an existing facility of the dealer or construct a new facility except under certain circumstances; prohibiting a manufacturer from taking adverse action against a dealer relating to the exportation of a vehicle outside the United States except under

certain circumstances; providing for the licensure of an agent of a broker; revising provisions governing the modification or replacement of a franchise; establishing fees; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.3 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 1.3 also 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 1.4 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 1.4 further 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 1.5 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 1.6 of this bill provides that a purchaser may waive the implied warranty of merchantability for a particular defect under certain circumstances. Section 1.8 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 1.7 of this bill provides that the provisions of sections 1.1-1.8 of this bill do not apply to the sale of a used vehicle which is covered by an express warranty of a manufacturer.

Section 2 of this bill prohibits a manufacturer from requiring a dealer to alter substantially an existing facility or to construct a new facility for any new vehicles that are handled by the dealer under certain circumstances. **Section 2** also provides that such a requirement constitutes a modification of the franchise of the dealer.

Section 3 of this bill prohibits a manufacturer from taking adverse action against a dealer who sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.

Sections 5 and 14 of this bill provide for the licensure of an agent for a broker of vehicles in this State. A person who violates the provisions governing the licensure of such agents is guilty of a misdemeanor.

Section 8 of this bill provides that if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line-make vehicles. **Section 8** defines such vehicles as those vehicles which are offered for sale, lease or distribution under the same name, trademark, service mark or brand of the manufacturer of the vehicles. (NRS 482.36354)

Section 13.7 of this bill provides that the forms for the application for credit and contract 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 1.5 and 1.6 of this bill.

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 13.2-13.5 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 14.5 of this bill repeals certain provisions governing express written warranties provided by a used vehicle dealer and the imposition of administrative fines.

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]~~ **1.1** to 5, inclusive, of this act.

Sec. 1.1. "Implied warranty of merchantability" means the implied warranty described in NRS 104.2314.

Sec. 1.2. 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 1.1 to 1.8, inclusive, of this act control with respect to the sale in this State of a used vehicle by a used vehicle dealer.

Sec. 1.3. 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. 1.4. 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. 1.5. 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. 1.6. 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. 1.7. The provisions of sections 1.1 to 1.8, 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. 1.8. If a used vehicle dealer violates any provision of sections 1.1 to 1.8, inclusive, of this act, the contract for the sale of a used vehicle is voidable by the purchaser.

Sec. 2. ***1. A manufacturer shall not require a dealer:***

(a) To alter substantially an existing facility of the dealer; or

(b) To construct a new facility,

↪ for any new vehicles that are handled by the dealer, unless the alteration or new construction constitutes a reasonable facility requirement in accordance with the franchise agreement.

2. If a manufacturer requires a substantial alteration of an existing facility of the dealer or requires the dealer to construct a new facility, that requirement constitutes a modification of the franchise of the dealer for the purposes of this section, NRS 482.36311 to 482.36425, inclusive, and sections 3 and 4 of this act.

Sec. 3. ***A manufacturer shall not modify the franchise of a dealer or take any adverse action against a dealer that sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.***

Sec. 4. (Deleted by amendment.)

Sec. 5. ***1. A person shall not engage in the activity of an agent for a broker, or act in the capacity of an agent in this State without first having received a license or temporary permit from the Department. Before issuing a license or temporary permit to engage in the activity of an agent, the Department shall require the applicant to submit to the Department:***

(a) An application, signed and verified by the applicant, stating:

(1) That the applicant is to engage in the activity of an agent;

(2) The name, residence address and social security number of the applicant; and

(3) The name and address of the employer of the applicant.

(b) Proof of the employment of the applicant by a broker at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or any previous license of the applicant has been revoked.

(d) Payment of a nonrefundable license fee of $75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of $40.

(e) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Any other information the Department determines necessary.

2. The Department may issue a 60-day temporary permit to an applicant who has submitted a complete application and paid the required fee.

3. A license to act as an agent of a broker issued pursuant to this section does not authorize a person to engage in the business of selling mobile homes.

4. The Department may deny an application for a license as an agent or suspend or revoke a license issued pursuant to this section upon any of the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that he is employed by a broker.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for a violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) Evidence of unfitness as described in NRS 482.3255.

(g) Failure of the applicant to provide any information determined necessary by the Department to process the application.

(h) Any reason determined by the Director to be in the best interests of the public.

5. An agent shall not engage in any activity, or act in any other capacity as an agent other than for the account of, or for and on behalf of, a single employer, at a specified place of business of that employer, who must be a broker.

6. If an application for a license as an agent is denied, the applicant may reapply for a license not less than 6 months after the denial.

7. An agent's license must be posted in a conspicuous place on the premises of the broker by whom the agent is employed.

8. If an agent ceases to be employed by a broker, his license to act as an agent is automatically suspended and his right to act as an agent immediately ceases, and he shall not engage in the activity of an agent until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

9. If an agent changes his residential address, he shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as an agent ceases to be employed by a broker, his permit to act as an agent is automatically suspended, his right to act as an agent immediately ceases and his application for licensure must be denied until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

11. A broker who employs an agent shall notify the Department of the termination of employment of the agent not later than 10 days after the date of termination by forwarding the license of the agent to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

13. As used in this section, "agent" means a person who is employed by a broker and who, for a fee or any other consideration, assists the broker in offering to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has not been

registered or for which an ownership interest has not been taken by the broker.

Sec. 6. NRS 482.319 is hereby amended to read as follows:

482.319 1. Except as otherwise provided in subsection 5, a natural person who applies for the issuance or renewal of a license issued pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act*** shall submit to the Department the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Department shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Department.

3. A license may not be issued or renewed by the Department pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act*** if the applicant is a natural person who:

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

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

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

5. If a licensee renews an existing license electronically, the licensee shall keep the original of the statement required pursuant to subsection 1 at his place of business for not less than 3 years after submitting the electronic renewal. The statement must be available during business hours for inspection by any authorized agent of the Director or the State of Nevada.

Sec. 7. NRS 482.3195 is hereby amended to read as follows:

482.3195 1. If the Department receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license issued pursuant to NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act,*** the Department shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department receives a letter issued to the holder of the license by the district attorney or

other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Department shall reinstate a license issued pursuant to NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act*** that has been suspended by a district court pursuant to NRS 425.540 if the Department receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 7.5. NRS 482.36311 is hereby amended to read as follows:

482.36311 As used in NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 482.36318 to 482.36348, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 482.36354 is hereby amended to read as follows:

482.36354 1. A manufacturer or distributor shall not modify the franchise of a dealer or replace the franchise with another franchise if the modification or replacement would have a substantially adverse effect upon the dealer's investment or his obligations to provide sales and service, unless:

(a) The manufacturer or distributor has given written notice of its intention to the Director and the dealer affected by the intended modification or replacement; and

(b) Either of the following conditions occurs:

(1) The dealer does not file a protest with the Director within 30 days after receiving the notice; or

(2) After a protest has been filed with the Director and the Director has conducted a hearing, the Director issues an order authorizing the manufacturer or distributor to modify or replace the franchise.

2. The notice required by subsection 1 must be given to the dealer and to the Director at least 60 days before the date on which the intended action is to take place.

3. If a manufacturer or distributor changes the area of primary responsibility of a dealer, the change constitutes a modification of the franchise of the dealer for the purposes of NRS 482.36311 to 482.36425, inclusive ~~.]~~ ***, and sections 2, 3 and 4 of this act.*** As used in this subsection, "area of primary responsibility" means the geographic area in which a dealer, pursuant to a franchise agreement, is responsible for selling, servicing and otherwise representing the products of a manufacturer or distributor.

4. Notwithstanding the provisions of this section, if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line-make vehicles.

5. As used in this section, "line-make vehicles" means those vehicles which are offered for sale, lease or distribution under the same name, trademark, service mark or brand of the manufacturer of the vehicles.

Sec. 8.2. NRS 482.36366 is hereby amended to read as follows:

482.36366 1. Each witness, other than an officer or employee of the State or of a political subdivision of the State or an expert witness, who appears by order of the Director in a hearing pursuant to NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act*** is entitled to receive for his attendance the same fees allowed by law to witnesses in civil cases. Except as otherwise provided in subsection 2, the amount must be paid by the party at whose request the witness is ordered to appear.

2. The Director may assess other costs against the parties as he deems appropriate. After any hearing on a protest filed pursuant to NRS 482.36352, 482.36354 or 482.36357, if the Director determines that the manufacturer or distributor has failed to establish that there is good cause to terminate, refuse to continue, modify or replace a franchise, or to establish an additional dealership or relocate an existing dealership, the Director shall award to the dealer his attorney's fees and costs.

3. For the purposes of this section, "costs" includes:

(a) Except as otherwise provided in paragraph (b), any applicable cost set forth in NRS 18.005; and

(b) The actual amount of any fees paid by a dealer to an expert witness in connection with the hearing.

Sec. 8.4. NRS 482.3638 is hereby amended to read as follows:

482.3638 It is an unfair act or practice for any manufacturer, distributor or factory branch, directly or through any representative, to:

1. Require a dealer to agree to a release, assignment, novation, waiver or estoppel which purports to relieve any person from liability imposed by this chapter, or require any controversy between a dealer and a manufacturer, distributor or representative to be referred to any person or agency except as set forth in this chapter if that referral would be binding on the dealer, except that this section does not prevent the parties from mutually agreeing to arbitration pursuant to law.

2. Require a dealer to agree to the jurisdiction, venue or tribunal in which a controversy arising under the provisions of the franchise agreement may or may not be submitted for resolution, or prohibit a dealer from bringing an action in any forum allowed by Nevada law.

3. Require a dealer to agree to a term or condition of a franchise agreement which violates any provision of NRS 482.36311 to 482.36425, inclusive ~~[.]~~ ***, and sections 2, 3 and 4 of this act.***

4. Require a dealer to waive a trial by jury in actions involving the manufacturer, distributor or factory branch.

5. Increase prices of new vehicles which the dealer had ordered for private retail consumers before his receipt of the written official notification of a price increase. A sales contract signed by a retail consumer constitutes

evidence of each order. Price changes applicable to new models or series of vehicles at the time of the introduction of the new models or series shall not be deemed a price increase. Price changes caused by:

(a) The addition to a vehicle of equipment formerly optional as standard or required equipment pursuant to state or federal law;

(b) Revaluation of the United States dollar in the case of foreign-made vehicles; or

(c) Transportation cost increases,

➥ are not subject to this subsection.

6. Deny the principal owner the opportunity to designate his spouse, a member of his family, a qualified manager, or a trust or other artificial person controlled by any of them as entitled to participate in the ownership of:

(a) The franchised dealership;

(b) A successor franchised dealership for 2 years or a longer reasonable time after the incapacity of the principal owner; or

(c) A successor franchised dealership after the death of the principal in accordance with NRS 482.36396 to 482.36414, inclusive.

7. Modify unilaterally, replace, enter into, relocate, terminate or refuse to renew a franchise in violation of law.

8. Terminate or refuse to approve a transfer of a franchise for a dealership, or honor the right of succession set forth in a franchise agreement or refuse to approve the transfer of a controlling interest in a dealership because the dealer has, before October 1, 1997, established an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership.

9. Prevent a dealer from establishing, on or after October 1, 1997, an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership if the dealer:

(a) Submits a written request for approval of the additional franchise to the manufacturer, distributor or factory branch of the existing dealership;

(b) Complies with the reasonable requirements for approval set forth in the franchise of the existing dealership; and

(c) Obtains the approval of the manufacturer, distributor or factory branch of the existing dealership.

➥ The manufacturer, distributor or factory branch shall notify the dealer in writing of its decision to approve or deny the request within 90 days after receipt of the request. The manufacturer, distributor or factory branch shall not unreasonably withhold its approval. If the request is denied, the material reasons for the denial must be stated. Failure to approve or deny the request, in writing, within 90 days has the effect of approval.

Sec. 8.6. NRS 482.36423 is hereby amended to read as follows:

482.36423 1. Whenever it appears that a person has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act,*** any person aggrieved thereby may apply to the district court in the county where the

defendant resides, or in the county where the violation or threat of violation occurs, for injunctive relief to restrain the person from continuing the violation or threat of violation.

2. In addition to any other judicial relief, any dealer or person who assumes the operation of a franchise pursuant to NRS 482.36396 to 482.36414, inclusive, who is injured in his business or property by reason of a violation of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act*** may bring an action in the district court in which the dealership is located, and may recover three times the pecuniary loss sustained by him, and the cost of suit, including a reasonable attorney's fee. The amount of pecuniary loss sustained by a dealer, pursuant to subsection 7 of NRS 482.3638, is the fair market value of the franchised dealership at the time of notification of termination, refusal to continue or unilateral modification of a franchise.

3. Any artificial person created and existing under the laws of any other state, territory, foreign government or the government of the United States, or any person residing outside the State, who grants a franchise to any dealer in this State may be served with any legal process in any action for injunctive relief or civil damages in the following manner:

(a) By delivering a copy of the process to the Director; and

(b) By mailing to the last known address of the manufacturer or distributor, by certified mail, return receipt requested, a copy of the summons and a copy of the complaint, together with copies of any petition or order for injunctive relief.

4. The defendant has 30 days, exclusive of the day of service, within which to answer or plead.

5. The method of service provided in this section is cumulative and may be utilized with, after or independently of all other methods of service.

Sec. 8.8. NRS 482.36425 is hereby amended to read as follows:

482.36425 1. Any manufacturer or distributor who willfully violates any provision of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act*** is subject to a civil penalty of not less than $50 nor more than $1,000 for each day of violation and for each act of violation. All civil penalties recovered must be paid to the State of Nevada.

2. Whenever it appears that a manufacturer or distributor has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act,*** the Attorney General may institute a civil suit in any district court of this State for injunctive relief to restrain the violation or threat of violation or, if the violation or threat is willful, for the assessment and recovery of the civil penalty, or both.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 13.1. **NRS 482.36655 is hereby amended to read as follows:**

482.36655 As used in NRS 482.36655 to 482.36667, inclusive, ***and sections 1.1 to 1.8, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 482.3666 and 482.366605 ***and section 1.1 of this act*** have the meanings ascribed to them in those sections.

Sec. 13.2. **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. 13.3. **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 1.1 to 1.8, 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 1.1 to 1.8, 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. 13.4. **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 1.1 to 1.8, 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. 13.5. **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 1.1 to 1.8, inclusive, of this act.***

Sec. 13.6. **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 1.1 to 1.8, 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. 13.7. **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 the 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 1.5 of this act and paragraph (c) of subsection 2 of section 1.6 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. 14. Section 5 of this act is hereby amended to read as follows:

Sec. 5. 1. A person shall not engage in the activity of an agent for a broker, or act in the capacity of an agent in this State without first having received a license or temporary permit from the Department. Before issuing a license or temporary permit to engage in the activity of an agent, the Department shall require the applicant to submit to the Department:

(a) An application, signed and verified by the applicant, stating:

(1) That the applicant is to engage in the activity of an agent;

(2) The name ~~[,]~~ ***and*** residence address ~~[and social security number]~~ of the applicant; and

(3) The name and address of the employer of the applicant.

(b) Proof of the employment of the applicant by a broker at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or any previous license of the applicant has been revoked.

(d) Payment of a nonrefundable license fee of $75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of $40.

(e) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Any other information the Department determines necessary.

2. The Department may issue a 60-day temporary permit to an applicant who has submitted a complete application and paid the required fee.

3. A license to act as an agent of a broker issued pursuant to this section does not authorize a person to engage in the business of selling mobile homes.

4. The Department may deny an application for a license as an agent or suspend or revoke a license issued pursuant to this section upon any of the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that he is employed by a broker.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for a violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) Evidence of unfitness as described in NRS 482.3255.

(g) Failure of the applicant to provide any information determined necessary by the Department to process the application.

(h) Any reason determined by the Director to be in the best interests of the public.

5. An agent shall not engage in any activity, or act in any other capacity as an agent other than for the account of, or for and on behalf of, a single employer, at a specified place of business of that employer, who must be a broker.

6. If an application for a license as an agent is denied, the applicant may reapply for a license not less than 6 months after the denial.

7. An agent's license must be posted in a conspicuous place on the premises of the broker by whom the agent is employed.

8. If an agent ceases to be employed by a broker, his license to act as an agent is automatically suspended and his right to act as an agent immediately ceases, and he shall not engage in the activity of an agent until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

9. If an agent changes his residential address, he shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as an agent ceases to be employed by a broker, his permit to act as an agent is automatically suspended, his right to act as an agent immediately ceases and his application for licensure must be denied until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

11. A broker who employs an agent shall notify the Department of the termination of employment of the agent not later than 10 days after the date of termination by forwarding the license of the agent to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

13. As used in this section, "agent" means a person who is employed by a broker and who, for a fee or any other consideration, assists the broker in offering to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has not been registered or for which an ownership interest has not been taken by the broker.

Sec. 14.5. **NRS 482.36662, 482.36663 and 482.36666 are hereby repealed.**

Sec. 15. 1. This section and sections 1 ~~[to 4, inclusive,]~~ **, 2, 3** and 7.5 to 13, inclusive, of this act become effective upon passage and approval.

2. Sections **1.1 to 1.8, inclusive, 13.1 to 13.7, inclusive, and 14.5 of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2009, for all other purposes.**

3. Sections 5, 6 and 7 of this act become effective on July 1, 2010.

~~[3.]~~ **4.** Section 5 of this act expires by limitation on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

~~[4.]~~ **5.** Section 14 of this act becomes effective on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures

under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

TEXT OF REPEALED 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.

The following amendment was proposed by Assemblywoman Spiegel:

Amendment No. 843.

AN ACT relating to vehicles; prohibiting a manufacturer from requiring a dealer to alter substantially an existing facility of the dealer or construct a new facility except under certain circumstances; prohibiting a manufacturer from taking adverse action against a dealer relating to the exportation of a

vehicle outside the United States except under certain circumstances; providing for the licensure of an agent of a broker; revising provisions governing the modification or replacement of a franchise; **revising provisions governing the termination of a franchise agreement with a manufacturer or distributer of motor vehicles;** establishing fees; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 2 of this bill prohibits a manufacturer from requiring a dealer to alter substantially an existing facility or to construct a new facility for any new vehicles that are handled by the dealer under certain circumstances. **Section 2** also provides that such a requirement constitutes a modification of the franchise of the dealer.

Section 3 of this bill prohibits a manufacturer from taking adverse action against a dealer who sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.

Sections 5 and 14 of this bill provide for the licensure of an agent for a broker of vehicles in this State. A person who violates the provisions governing the licensure of such agents is guilty of a misdemeanor.

Under existing law, when a franchise agreement is terminated by a manufacturer or distributor of motor vehicles, the manufacturer or distributor is required to compensate the new vehicle dealer for the dealer's inventory of new vehicles and certain inventory of parts and accessories of the dealer. (NRS 482.363521) Sections 7.1-7.7 of this bill provide that, if the franchise agreement is terminated due to the bankruptcy of the manufacturer or distributor, the dealer may elect instead to retain the inventory of new vehicles and certain parts and accessories, and is authorized for a specified period to sell the vehicles at retail and thereafter to sell the vehicles as used vehicles. The dealer is further authorized to sell the inventory of the retained parts and accessories.

Section 8 of this bill provides that if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line-make vehicles. **Section 8** defines such vehicles as those vehicles which are offered for sale, lease or distribution under the same name, trademark, service mark or brand of the manufacturer of the vehicles. (NRS 482.36354)

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 5, inclusive, of this act.

Sec. 2. ***1. A manufacturer shall not require a dealer:***

(a) To alter substantially an existing facility of the dealer; or

(b) To construct a new facility,

↪ for any new vehicles that are handled by the dealer, unless the alteration or new construction constitutes a reasonable facility requirement in accordance with the franchise agreement.

2. If a manufacturer requires a substantial alteration of an existing facility of the dealer or requires the dealer to construct a new facility, that requirement constitutes a modification of the franchise of the dealer for the purposes of this section, NRS 482.36311 to 482.36425, inclusive, and sections 3 and 4 of this act.

Sec. 3. ***A manufacturer shall not modify the franchise of a dealer or take any adverse action against a dealer that sells a vehicle which is later exported outside the United States, unless the dealer had actual knowledge of or reasonably should have known of the exportation of the vehicle.***

Sec. 4. (Deleted by amendment.)

Sec. 5. ***1. A person shall not engage in the activity of an agent for a broker, or act in the capacity of an agent in this State without first having received a license or temporary permit from the Department. Before issuing a license or temporary permit to engage in the activity of an agent, the Department shall require the applicant to submit to the Department:***

(a) An application, signed and verified by the applicant, stating:

(1) That the applicant is to engage in the activity of an agent;

(2) The name, residence address and social security number of the applicant; and

(3) The name and address of the employer of the applicant.

(b) Proof of the employment of the applicant by a broker at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or any previous license of the applicant has been revoked.

(d) Payment of a nonrefundable license fee of $75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of $40.

(e) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Any other information the Department determines necessary.

2. The Department may issue a 60-day temporary permit to an applicant who has submitted a complete application and paid the required fee.

3. A license to act as an agent of a broker issued pursuant to this section does not authorize a person to engage in the business of selling mobile homes.

4. The Department may deny an application for a license as an agent or suspend or revoke a license issued pursuant to this section upon any of the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that he is employed by a broker.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for a violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) Evidence of unfitness as described in NRS 482.3255.

(g) Failure of the applicant to provide any information determined necessary by the Department to process the application.

(h) Any reason determined by the Director to be in the best interests of the public.

5. An agent shall not engage in any activity, or act in any other capacity as an agent other than for the account of, or for and on behalf of, a single employer, at a specified place of business of that employer, who must be a broker.

6. If an application for a license as an agent is denied, the applicant may reapply for a license not less than 6 months after the denial.

7. An agent's license must be posted in a conspicuous place on the premises of the broker by whom the agent is employed.

8. If an agent ceases to be employed by a broker, his license to act as an agent is automatically suspended and his right to act as an agent immediately ceases, and he shall not engage in the activity of an agent until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

9. If an agent changes his residential address, he shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as an agent ceases to be employed by a broker, his permit to act as an agent is automatically suspended, his right to act as an agent immediately ceases and his application for licensure must be denied until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

11. A broker who employs an agent shall notify the Department of the termination of employment of the agent not later than 10 days after the date of termination by forwarding the license of the agent to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

13. As used in this section, "agent" means a person who is employed by a broker and who, for a fee or any other consideration, assists the broker in offering to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has not been registered or for which an ownership interest has not been taken by the broker.

Sec. 6. NRS 482.319 is hereby amended to read as follows:

482.319 1. Except as otherwise provided in subsection 5, a natural person who applies for the issuance or renewal of a license issued pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act*** shall submit to the Department the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Department shall include the statement required pursuant to subsection 1 in:

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

(b) A separate form prescribed by the Department.

3. A license may not be issued or renewed by the Department pursuant to the provisions of NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act*** if the applicant is a natural person who:

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

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

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

5. If a licensee renews an existing license electronically, the licensee shall keep the original of the statement required pursuant to subsection 1 at his place of business for not less than 3 years after submitting the electronic renewal. The statement must be available during business hours for inspection by any authorized agent of the Director or the State of Nevada.

Sec. 7. NRS 482.3195 is hereby amended to read as follows:

482.3195 1. If the Department receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a license issued pursuant to NRS 482.318 to

482.363105, inclusive, ***and section 5 of this act,*** the Department shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the Department receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Department shall reinstate a license issued pursuant to NRS 482.318 to 482.363105, inclusive, ***and section 5 of this act*** that has been suspended by a district court pursuant to NRS 425.540 if the Department receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 7.1. **NRS 482.322 is hereby amended to read as follows:**

482.322 1. Except as otherwise provided in subsection 2 and NRS 482.3225, a person shall not engage in the activities of a new vehicle dealer, used vehicle dealer, manufacturer, distributor or rebuilder in this State until he has been issued:

(a) A new vehicle dealer's, used vehicle dealer's, manufacturer's, distributor's, rebuilder's or lessor's license certificate or similar license or permit by every city within whose corporate limits he maintains an established place of business and by every county in which he maintains an established place of business outside the corporate limits of a city; and

(b) A license by the Department. The Department shall not issue a license to the person until he has been issued all certificates, licenses and permits required by paragraph (a).

2. ~~[A]~~ ***Except as otherwise provided in NRS 482.363521, a*** person licensed as a dealer pursuant to this chapter shall not engage in the activities of a new vehicle dealer until he has provided the Department with satisfactory proof that he is authorized by a manufacturer to display and offer for sale vehicles produced or distributed by that manufacturer.

3. A vehicle dealer's, manufacturer's or rebuilder's license issued pursuant to this chapter does not permit a person to engage in the business of a new or used mobile home dealer, manufacturer or rebuilder.

4. The Department shall investigate any applicant for a dealer's, manufacturer's, distributor's, rebuilder's or lessor's license certificate or license and complete an investigation report on a form provided by the Department.

5. A person who violates subsection 1 or 2 is guilty of:

(a) For a first offense, a misdemeanor.

(b) For a second offense, a gross misdemeanor.

(c) For a third and any subsequent offense, a category D felony and shall be punished as provided in NRS 193.130.

Sec. 7.3. **NRS 482.350 is hereby amended to read as follows:**

482.350 1. A new vehicle dealer's license shall not be furnished to any dealer in new vehicles, trailers or semitrailers unless the dealer first furnishes the Department an instrument executed by or on behalf of the manufacturer certifying that he is an authorized franchised dealer for the make or makes of vehicle concerned. ~~[New]~~ ***Except as otherwise provided in NRS 482.363521, new*** vehicle dealers are authorized to sell at retail only those new vehicles for which they are certified as franchised dealers by the manufacturer.

2. In addition to selling used vehicles, a used vehicle dealer may:

(a) Sell at wholesale a new vehicle taken in trade or acquired as a result of a sales contract to a new vehicle dealer who is licensed and authorized to sell that make of vehicle;

(b) Sell at wholesale a new vehicle through a wholesale vehicle auction provided that the wholesale vehicle auctioneer:

(1) Does not take an ownership interest in the vehicle; and

(2) Auctions the vehicle to a vehicle dealer who is licensed and authorized to sell that make of vehicle or to an automobile wrecker who is licensed in this State or any other state; or

(c) Sell a new vehicle on consignment from a person not licensed as a vehicle dealer, rebuilder or a long-term or short-term lessor.

Sec. 7.5. NRS 482.36311 is hereby amended to read as follows:

482.36311 As used in NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 482.36318 to 482.36348, inclusive, have the meanings ascribed to them in those sections.

Sec. 7.7. **NRS 482.363521 is hereby amended to read as follows:**

482.363521 1. ~~[Upon]~~ ***Except as otherwise provided in subsection 6, upon*** the termination or refusal to continue a franchise, the manufacturer or distributor shall compensate the dealer for:

(a) The dealer's inventory of new vehicles, including new vehicles not of the current model year if delivered to the dealer during the 18-month period immediately preceding the effective date of the termination or refusal to continue the franchise. ~~[As used in this paragraph, a "new vehicle" is one which has not been damaged, materially altered or registered with the Department or with the appropriate agency of authority of any other state, the District of Columbia, any territory or possession of the United States or any foreign state, province or country.]~~

(b) The dealer's inventory of parts and accessories which:

(1) Have been purchased by the dealer from the manufacturer or distributor; and

(2) Are listed in a current parts catalog of the manufacturer or distributor.

(c) Any special tools purchased by the dealer from the manufacturer or distributor, less a reasonable allowance for depreciation.

(d) Any equipment, furnishings or signs purchased by the dealer from the manufacturer or distributor, less a reasonable allowance for depreciation.

(e) Except as otherwise provided in subsection 4, the fair rental value for 90 days, and any additional period allowed by the Director after considering the difficulty of finding a new tenant for the dealer's premises affected, after the effective date of the termination or refusal to continue of the portion of the dealer's place of business that was used by the dealer to sell or service vehicles or other products of the manufacturer or distributor.

2. Compensation paid pursuant to paragraphs (a) to (d), inclusive, of subsection 1 must be paid in an amount at least equal to the greater of:

(a) The amount actually paid by the dealer for the vehicles, parts, tools and equipment; or

(b) The amount currently paid by other dealers in this State for the vehicles, parts, tools and equipment.

3. If compensation is paid pursuant to paragraph (e) of subsection 1, the dealer shall allow the manufacturer or distributor paying the compensation the use and possession of the premises affected.

4. The manufacturer or distributor is not required to pay compensation pursuant to paragraph (e) of subsection 1 if the dealer has been convicted of a crime involving fraud in connection with his application for or operation of the franchise.

5. This section does not relieve a dealer of his obligation to mitigate damages resulting from the termination or refusal to continue the franchise.

6. If a franchise agreement is terminated by or on behalf of the manufacturer or distributor as a result of a reorganization of the business of the manufacturer or distributor pursuant to an order of a federal bankruptcy court, the dealer may elect to retain the inventory of new vehicles, parts and accessories, special tools and equipment, furnishing or signs which meet the requirements of paragraphs (a) to (d), inclusive, of subsection 1. A dealer that makes such an election must inform the manufacturer or distributor and the Director in writing not later than 30 days after the effective date of the termination of the franchise agreement of that election.

7. A dealer that elects to retain the inventory pursuant to subsection 6:

(a) Forfeits any right to seek compensation pursuant to subsection 1; and

(b) Does not forfeit the right to protest the termination of the franchise agreement pursuant to NRS 482.36352.

8. A dealer that elects to retain an inventory of new vehicles pursuant to subsection 6 may sell those vehicles at retail for 6 months after the date on which the manufacturer or distributor and the Director are notified of the dealer's election pursuant to subsection 6, provided that the dealer retains a license as a new vehicle dealer. Any such sale:

(a) Is subject to all applicable provisions of this chapter; and

(b) Must include a written disclosure by the dealer to the customer that clearly states:

(1) The terms of the manufacturer's warranty, if any;

(2) The terms of any express warranty made by the dealer; or

(3) That the vehicle is being sold without any express or implied warranty.

9. After the period set forth in subsection 8, if the dealer is licensed as a used vehicle dealer, the dealer may sell any remaining vehicles as used vehicles, subject to all applicable provisions of this chapter.

10. A dealer who elects to retain his inventory of parts and accessories, special tools and equipment, furnishing or signs pursuant to subsection 6 may retain, sell or otherwise dispose of the parts and accessories, special tools and equipment, furnishing or signs.

11. As used in this section, "new vehicle" means a vehicle which has not been damaged, materially altered or registered with the Department or with the appropriate agency of authority of any other state, the District of Columbia, any territory or possession of the United States or any foreign state, province or country.

Sec. 8. NRS 482.36354 is hereby amended to read as follows:

482.36354 1. A manufacturer or distributor shall not modify the franchise of a dealer or replace the franchise with another franchise if the modification or replacement would have a substantially adverse effect upon the dealer's investment or his obligations to provide sales and service, unless:

(a) The manufacturer or distributor has given written notice of its intention to the Director and the dealer affected by the intended modification or replacement; and

(b) Either of the following conditions occurs:

(1) The dealer does not file a protest with the Director within 30 days after receiving the notice; or

(2) After a protest has been filed with the Director and the Director has conducted a hearing, the Director issues an order authorizing the manufacturer or distributor to modify or replace the franchise.

2. The notice required by subsection 1 must be given to the dealer and to the Director at least 60 days before the date on which the intended action is to take place.

3. If a manufacturer or distributor changes the area of primary responsibility of a dealer, the change constitutes a modification of the franchise of the dealer for the purposes of NRS 482.36311 to 482.36425, inclusive ~~.~~ ***, and sections 2, 3 and 4 of this act.*** As used in this subsection, "area of primary responsibility" means the geographic area in which a dealer, pursuant to a franchise agreement, is responsible for selling, servicing and otherwise representing the products of a manufacturer or distributor.

4. Notwithstanding the provisions of this section, if a manufacturer is purchased by another manufacturer or entity, a dealer must be offered a franchise agreement that is substantially similar to the franchise agreement offered to other dealers of the same line-make vehicles.

5. As used in this section, "line-make vehicles" means those vehicles which are offered for sale, lease or distribution under the same name, trademark, service mark or brand of the manufacturer of the vehicles.

Sec. 8.2. NRS 482.36366 is hereby amended to read as follows:

482.36366 1. Each witness, other than an officer or employee of the State or of a political subdivision of the State or an expert witness, who appears by order of the Director in a hearing pursuant to NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act*** is entitled to receive for his attendance the same fees allowed by law to witnesses in civil cases. Except as otherwise provided in subsection 2, the amount must be paid by the party at whose request the witness is ordered to appear.

2. The Director may assess other costs against the parties as he deems appropriate. After any hearing on a protest filed pursuant to NRS 482.36352, 482.36354 or 482.36357, if the Director determines that the manufacturer or distributor has failed to establish that there is good cause to terminate, refuse to continue, modify or replace a franchise, or to establish an additional dealership or relocate an existing dealership, the Director shall award to the dealer his attorney's fees and costs.

3. For the purposes of this section, "costs" includes:

(a) Except as otherwise provided in paragraph (b), any applicable cost set forth in NRS 18.005; and

(b) The actual amount of any fees paid by a dealer to an expert witness in connection with the hearing.

Sec. 8.4. NRS 482.3638 is hereby amended to read as follows:

482.3638 It is an unfair act or practice for any manufacturer, distributor or factory branch, directly or through any representative, to:

1. Require a dealer to agree to a release, assignment, novation, waiver or estoppel which purports to relieve any person from liability imposed by this chapter, or require any controversy between a dealer and a manufacturer, distributor or representative to be referred to any person or agency except as set forth in this chapter if that referral would be binding on the dealer, except that this section does not prevent the parties from mutually agreeing to arbitration pursuant to law.

2. Require a dealer to agree to the jurisdiction, venue or tribunal in which a controversy arising under the provisions of the franchise agreement may or may not be submitted for resolution, or prohibit a dealer from bringing an action in any forum allowed by Nevada law.

3. Require a dealer to agree to a term or condition of a franchise agreement which violates any provision of NRS 482.36311 to 482.36425, inclusive ~~[.]~~ ***, and sections 2, 3 and 4 of this act.***

4. Require a dealer to waive a trial by jury in actions involving the manufacturer, distributor or factory branch.

5. Increase prices of new vehicles which the dealer had ordered for private retail consumers before his receipt of the written official notification of a price increase. A sales contract signed by a retail consumer constitutes

evidence of each order. Price changes applicable to new models or series of vehicles at the time of the introduction of the new models or series shall not be deemed a price increase. Price changes caused by:

(a) The addition to a vehicle of equipment formerly optional as standard or required equipment pursuant to state or federal law;

(b) Revaluation of the United States dollar in the case of foreign-made vehicles; or

(c) Transportation cost increases,

➥ are not subject to this subsection.

6. Deny the principal owner the opportunity to designate his spouse, a member of his family, a qualified manager, or a trust or other artificial person controlled by any of them as entitled to participate in the ownership of:

(a) The franchised dealership;

(b) A successor franchised dealership for 2 years or a longer reasonable time after the incapacity of the principal owner; or

(c) A successor franchised dealership after the death of the principal in accordance with NRS 482.36396 to 482.36414, inclusive.

7. Modify unilaterally, replace, enter into, relocate, terminate or refuse to renew a franchise in violation of law.

8. Terminate or refuse to approve a transfer of a franchise for a dealership, or honor the right of succession set forth in a franchise agreement or refuse to approve the transfer of a controlling interest in a dealership because the dealer has, before October 1, 1997, established an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership.

9. Prevent a dealer from establishing, on or after October 1, 1997, an additional franchise to sell or service another line or make of new vehicles in the same facility as the existing dealership if the dealer:

(a) Submits a written request for approval of the additional franchise to the manufacturer, distributor or factory branch of the existing dealership;

(b) Complies with the reasonable requirements for approval set forth in the franchise of the existing dealership; and

(c) Obtains the approval of the manufacturer, distributor or factory branch of the existing dealership.

➥ The manufacturer, distributor or factory branch shall notify the dealer in writing of its decision to approve or deny the request within 90 days after receipt of the request. The manufacturer, distributor or factory branch shall not unreasonably withhold its approval. If the request is denied, the material reasons for the denial must be stated. Failure to approve or deny the request, in writing, within 90 days has the effect of approval.

Sec. 8.6. NRS 482.36423 is hereby amended to read as follows:

482.36423 1. Whenever it appears that a person has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act,*** any person aggrieved thereby may apply to the district court in the county where the

defendant resides, or in the county where the violation or threat of violation occurs, for injunctive relief to restrain the person from continuing the violation or threat of violation.

2. In addition to any other judicial relief, any dealer or person who assumes the operation of a franchise pursuant to NRS 482.36396 to 482.36414, inclusive, who is injured in his business or property by reason of a violation of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act*** may bring an action in the district court in which the dealership is located, and may recover three times the pecuniary loss sustained by him, and the cost of suit, including a reasonable attorney's fee. The amount of pecuniary loss sustained by a dealer, pursuant to subsection 7 of NRS 482.3638, is the fair market value of the franchised dealership at the time of notification of termination, refusal to continue or unilateral modification of a franchise.

3. Any artificial person created and existing under the laws of any other state, territory, foreign government or the government of the United States, or any person residing outside the State, who grants a franchise to any dealer in this State may be served with any legal process in any action for injunctive relief or civil damages in the following manner:

(a) By delivering a copy of the process to the Director; and

(b) By mailing to the last known address of the manufacturer or distributor, by certified mail, return receipt requested, a copy of the summons and a copy of the complaint, together with copies of any petition or order for injunctive relief.

4. The defendant has 30 days, exclusive of the day of service, within which to answer or plead.

5. The method of service provided in this section is cumulative and may be utilized with, after or independently of all other methods of service.

Sec. 8.8. NRS 482.36425 is hereby amended to read as follows:

482.36425 1. Any manufacturer or distributor who willfully violates any provision of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act*** is subject to a civil penalty of not less than $50 nor more than $1,000 for each day of violation and for each act of violation. All civil penalties recovered must be paid to the State of Nevada.

2. Whenever it appears that a manufacturer or distributor has violated, is violating or is threatening to violate any provision of NRS 482.36311 to 482.36425, inclusive, ***and sections 2, 3 and 4 of this act,*** the Attorney General may institute a civil suit in any district court of this State for injunctive relief to restrain the violation or threat of violation or, if the violation or threat is willful, for the assessment and recovery of the civil penalty, or both.

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 11. (Deleted by amendment.)

Sec. 12. (Deleted by amendment.)

Sec. 13. (Deleted by amendment.)

Sec. 14. Section 5 of this act is hereby amended to read as follows:

Sec. 5. 1. A person shall not engage in the activity of an agent for a broker, or act in the capacity of an agent in this State without first having received a license or temporary permit from the Department. Before issuing a license or temporary permit to engage in the activity of an agent, the Department shall require the applicant to submit to the Department:

(a) An application, signed and verified by the applicant, stating:

(1) That the applicant is to engage in the activity of an agent;

(2) The name ~~[,]~~ ***and*** residence address ~~[and social security number]~~ of the applicant; and

(3) The name and address of the employer of the applicant.

(b) Proof of the employment of the applicant by a broker at the time the application is filed.

(c) A statement as to whether any previous application of the applicant has been denied or any previous license of the applicant has been revoked.

(d) Payment of a nonrefundable license fee of $75. The license expires on December 31 of each calendar year and may be renewed annually upon the payment of a fee of $40.

(e) For initial licensure, a complete set of his fingerprints and written permission authorizing the Department to forward those fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Any other information the Department determines necessary.

2. The Department may issue a 60-day temporary permit to an applicant who has submitted a complete application and paid the required fee.

3. A license to act as an agent of a broker issued pursuant to this section does not authorize a person to engage in the business of selling mobile homes.

4. The Department may deny an application for a license as an agent or suspend or revoke a license issued pursuant to this section upon any of the following grounds:

(a) Failure of the applicant to establish by proof satisfactory to the Department that he is employed by a broker.

(b) Conviction of a felony.

(c) Conviction of a gross misdemeanor.

(d) Conviction of a misdemeanor for a violation of any of the provisions of this chapter.

(e) Falsification of the application.

(f) Evidence of unfitness as described in NRS 482.3255.

(g) Failure of the applicant to provide any information determined necessary by the Department to process the application.

(h) Any reason determined by the Director to be in the best interests of the public.

5. An agent shall not engage in any activity, or act in any other capacity as an agent other than for the account of, or for and on behalf of, a single employer, at a specified place of business of that employer, who must be a broker.

6. If an application for a license as an agent is denied, the applicant may reapply for a license not less than 6 months after the denial.

7. An agent's license must be posted in a conspicuous place on the premises of the broker by whom the agent is employed.

8. If an agent ceases to be employed by a broker, his license to act as an agent is automatically suspended and his right to act as an agent immediately ceases, and he shall not engage in the activity of an agent until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

9. If an agent changes his residential address, he shall submit a written notice of the change to the Department within 10 days after the change occurs.

10. If a person who holds a temporary permit to act as an agent ceases to be employed by a broker, his permit to act as an agent is automatically suspended, his right to act as an agent immediately ceases and his application for licensure must be denied until he has:

(a) Paid the Department a transfer fee of $20 and submitted a certificate of employment indicating that he has been reemployed by a broker; and

(b) Presented a current temporary permit or new license to the broker by whom he is employed.

11. A broker who employs an agent shall notify the Department of the termination of employment of the agent not later than 10 days after the date of termination by forwarding the license of the agent to the Department.

12. Any person who fails to comply with the provisions of this section is guilty of a misdemeanor except as otherwise provided in NRS 482.555.

13. As used in this section, "agent" means a person who is employed by a broker and who, for a fee or any other consideration, assists the broker in offering to provide to another person the service of arranging, negotiating or assisting in the purchase of a new or used vehicle which has not been registered or for which an ownership interest has not been taken by the broker.

Sec. 15. 1. This section and sections 1 to 4, inclusive, and ~~[7.5]~~ **7.1** to 13, inclusive, of this act become effective upon passage and approval.

2. Sections 5, 6 and 7 of this act become effective on July 1, 2010.

3. Section 5 of this act expires by limitation on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment of the support of one or more children,

➥ are repealed by the Congress of the United States.

4. Section 14 of this act becomes effective on the date on which the provisions of 42 U.S.C. 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:

(a) Have failed to comply with a subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

➥ are repealed by the Congress of the United States.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bill No. 415 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 415.

Bill read third time.

Potential conflict of interest declared by Assemblymen Gustavson, Carpenter, Atkinson, Aizley, Anderson, Bobzien, Stewart, Munford, Oceguera, Grady, Goicoechea, Woodbury, Kihuen, Denis, Settelmeyer, Dondero Loop, Ohrenschall, Parnell, Segerblom, and Koivisto.

Roll call on Senate Bill No. 415:

YEAS—37.

NAYS—Cobb, Goedhart, Gustavson, Hambrick, McArthur—5.

Senate Bill No. 415 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

Senate Bill No. 92.

Bill read third time.

Roll call on Senate Bill No. 92:

YEAS—40.

NAYS—Claborn, Smith—2.

Senate Bill No. 92 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 124.

Bill read third time.

Remarks by Assemblyman Stewart.

Roll call on Senate Bill No. 124:

YEAS—42.

NAYS—None.

Senate Bill No. 124 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assemblyman Oceguera moved that the Assembly recess until 4 p.m.

Motion carried.

Assembly in recess at 1:37 p.m.

ASSEMBLY IN SESSION

At 4:35 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 94, 173, 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*

MOTIONS, RESOLUTIONS AND NOTICES

NOTICE OF EXEMPTION

May 20, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Assembly Bill No. 397.

GARY GHIGGERI
Fiscal Analysis Division

NOTICE OF WAIVER

A Waiver requested by Senator Horsford.

For: BDR S-1321 (Senate Bill No. 432).

To Waive:

Subsection 1 of Joint Standing Rule No. 14 (2 BDRs from Assemblymen and 4 BDRs from Senators requested by 8th day).

Subsection 1 of Joint Standing Rule No. 14.2 (dates for introduction of BDRs requested by individual legislators and committees).

Subsection 1 of Joint Standing Rule No. 14.3 (out of final committee of house of origin by 68th day).

Subsection 2 of Joint Standing Rule No. 14.3 (out of house of origin by 79th day).

Subsection 3 of Joint Standing Rule No. 14.3 (out of final committee of 2nd house by 103rd day).

Subsection 4 of Joint Standing Rule No. 14.3 (out of 2nd house by 110th day).
Has been granted effective: May 20, 2009.

STEVEN A. HORSFORD
Senate Majority Leader

BARBARA BUCKLEY
Speaker of the Assembly

INTRODUCTION, FIRST READING AND REFERENCE

By the Committee on Ways and Means:

Assembly Bill No. 563—AN ACT relating to education; ensuring sufficient funding for K-12 public education for the 2009-2011 biennium; apportioning the State Distributive School Account in the State General Fund for the 2009-2011 biennium; authorizing certain expenditures; making appropriations for purposes relating to basic support, class-size reduction and other educational purposes; authorizing temporarily the board of trustees of a school district to use money raised through its general obligations for the purchase of equipment for the transportation of pupils; revising provisions governing local funds available for certain school districts for the 2009-2011 biennium; and providing other matters properly relating thereto.

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

Motion carried.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was rereferred Assembly Bill No. 430, 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 Anderson moved that Senate Bill No. 68 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

Assemblyman Anderson moved that Senate Bill No. 313 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 94.

Bill read second time.

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

Amendment No. 828.

AN ACT relating to fire protection; imposing various requirements relating to fire protection in the areas of the Lake Tahoe Basin and the Lake Mead Basin that are located in this State; requiring the State Forester

Firewarden and State Fire Marshal to cooperate in the enforcement of certain laws and regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law charges the State Forester Firewarden with overseeing various fire protection activities for the State. (Chapter 472 of NRS) Existing law also provides for the creation of various types of fire protection districts. (Chapters 318, 473 and 474 of NRS) Existing law sets forth the duties of the State Forester Firewarden. (NRS 472.040) **Section 2** of this bill expands those duties to include cooperating with the State Fire Marshal in enforcing laws and adopting regulations, assessing codes, rules and regulations of certain agencies to ensure they are consistent with other fire codes, rules and regulations and ensuring that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS. Existing law requires the State Fire Marshal to cooperate with the State Forester Firewarden to prepare certain regulations. (NRS 477.030) **Section 4** of this bill expands that requirement to include regulations relating to the mitigation of the fire hazard risk posed by vegetation in the Lake Tahoe Basin and the Lake Mead Basin. **Section 5** of this bill requires the State Forester Firewarden to review and evaluate the laws and regulations of this State to: (1) ensure that such fire protection districts have adequate statutory and regulatory authority to carry out the regulations adopted pursuant to this bill and to carry out necessary fire safety and fire prevention activities; and (2) ensure that there are adequate mechanisms to increase the funding of the fire prevention districts, if necessary, to enforce the regulations and that adequate funding exists to carry out their responsibilities. The State Forester Firewarden is required to submit a report of its review and evaluation and any recommendations for legislation to **the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System, and to** the Director of the Legislative Counsel Bureau by January 1, 2011, for ~~[submission]~~ **transmittal** to the 2011 Legislature.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 472.040 is hereby amended to read as follows:

472.040 1. The State Forester Firewarden shall:

(a) Supervise or coordinate all forestry and watershed work on state-owned and privately owned lands, including fire control, in Nevada, working with federal agencies, private associations, counties, towns, cities or private persons.

(b) Administer all fire control laws and all forestry laws in Nevada outside of townsite boundaries, and perform any other duties designated by the Director of the State Department of Conservation and Natural Resources or by state law.

(c) Assist and encourage county or local fire protection districts to create legally constituted fire protection districts where they are needed and offer guidance and advice in their operation.

(d) Designate the boundaries of each area of the State where the construction of buildings on forested lands creates such a fire hazard as to require the regulation of roofing materials.

(e) Adopt and enforce regulations relating to standards for fire retardant roofing materials to be used in the construction, alteration, change or repair of buildings located within the boundaries of fire hazardous forested areas.

(f) Purchase communication equipment which can use the microwave channels of the state communications system and store this equipment in regional locations for use in emergencies.

(g) Administer money appropriated and grants awarded for fire prevention, fire control and the education of firefighters and award grants of money for those purposes to fire departments and educational institutions in this State.

(h) Determine the amount of wages that must be paid to offenders who participate in conservation camps and who perform work relating to fire fighting and other work projects of conservation camps.

(i) Cooperate with the State Fire Marshal in the enforcement of all laws and the adoption of regulations relating to the prevention of fire through the management of vegetation in counties located within or partially within the Lake Tahoe Basin and the Lake Mead Basin.

(j) Assess the codes, rules and regulations which are adopted by other agencies that have specific regulatory authority within the Lake Tahoe Basin and the Lake Mead Basin, and which are not subject to the authority of a state or local fire agency, for consistency with fire codes, rules and regulations.

(k) Ensure that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS.

2. The State Forester Firewarden in carrying out the provisions of this chapter may:

(a) Appoint paid foresters and firewardens to enforce the provisions of the laws of this State respecting forest and watershed management or the protection of forests and other lands from fire, subject to the approval of the board of county commissioners of each county concerned.

(b) Appoint suitable citizen-wardens. Citizen-wardens serve voluntarily except that they may receive compensation when an emergency is declared by the State Forester Firewarden.

(c) Appoint, upon the recommendation of the appropriate federal officials, resident officers of the United States Forest Service and the United States Bureau of Land Management as voluntary firewardens. Voluntary firewardens are not entitled to compensation for their services.

(d) Appoint certain paid foresters or firewardens to be arson investigators.

(e) Employ, with the consent of the Director of the State Department of Conservation and Natural Resources, clerical assistance, county and district coordinators, patrolmen, firefighters, and other employees as needed, and expend such sums as may be necessarily incurred for this purpose.

(f) Purchase, or acquire by donation, supplies, material, equipment and improvements necessary to fire protection and forest and watershed management.

(g) With the approval of the Director of the State Department of Conservation and Natural Resources and the State Board of Examiners, purchase or accept the donation of real property to be used for lookout sites and for other administrative, experimental or demonstration purposes. No real property may be purchased or accepted unless an examination of the title shows the property to be free from encumbrances, with title vested in the grantor. The title to the real property must be examined and approved by the Attorney General.

(h) Expend any money appropriated by the State to the Division of Forestry of the State Department of Conservation and Natural Resources for paying expenses incurred in fighting fires or in emergencies which threaten human life.

3. The State Forester Firewarden, in carrying out the powers and duties granted in this section, is subject to administrative supervision by the Director of the State Department of Conservation and Natural Resources.

Sec. 3. NRS 472.041 is hereby amended to read as follows:

472.041 1. The State Forester Firewarden may:

(a) In a district formed pursuant to NRS 473.034; and

(b) In an area designated pursuant to paragraph (d) of subsection 1 of NRS 472.040, including ***, without limitation,*** any land within the 1/2-mile radius surrounding such an area,

➥ enforce **[**~~the provisions of Appendix II-A of the Uniform Fire Code of the International Conference of Building Officials in the form most recently adopted by that conference before July 1, 1985, regarding the clearance~~**]** ***all regulations relating to the reduction*** of brush, dense undergrowth and other vegetation around and adjacent to a structure to reduce the exposure of the structure to fire and radiant heat and increase the ability of firefighters to protect the structure.

2. The enforcement of these provisions must permit the planting of grass, trees, ornamental shrubbery or other plants used to stabilize the soil and prevent erosion so long as the plants do not form a means of rapidly transmitting fire from native growth to any structure.

Sec. 4. 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 ~~.~~ ***and the mitigation of the risk of a fire hazard from vegetation in counties within or partially within the Lake Tahoe Basin and the Lake Mead Basin.***

4. The State Fire Marshal shall cooperate with the Division of Child and Family Services of the Department of Health and Human Services in establishing reasonable minimum standards for overseeing the safety of and

directing the means and adequacy of exit in case of fire from family foster homes and group foster homes.

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

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

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

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

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

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

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

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

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

9. The State Fire Marshal shall:

(a) 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. 5. 1. The State Forester Firewarden shall review and evaluate the laws and regulations of this State to ensure that adequate statutory and regulatory authority exists for each fire protection district, located in whole or in part in the areas of the Lake Tahoe Basin and the Lake Mead Basin in this State, that is created pursuant to chapter 318, 473 or 474 of NRS to carry out the regulations adopted pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040 and to carry out any necessary fire safety and fire prevention activities. The review and evaluation must also include a determination of whether such fire protection districts have adequate funding to carry out their responsibilities and whether one or more statutory mechanisms exist to increase the funding, if necessary, to ensure the enforcement of the regulations adopted pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040.

2. On or before January 1, 2011, the State Forester Firewarden shall submit a report which includes a summary of the review and evaluation conducted pursuant to subsection 1 and any recommendations for legislation

to the **Committee and to the** Director of the Legislative Counsel Bureau for transmittal to the Legislature. The Director shall cause the report to be made available to each Senator and Assemblyman of the 2011 Legislature.

3. As used in this section, "Committee" means the Legislative Committee for the Review and Oversight of the Tahoe Regional Planning Agency and the Marlette Lake Water System created by NRS 218.53871.

Sec. 6. The State Forester Firewarden shall adopt the regulations required pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040 and complete the review and evaluation of the laws and regulations of this State required pursuant to section 5 of this act not later than July 1, 2010.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

The following amendment was proposed by Assemblyman Oceguera:

Amendment No. 839.

SUMMARY— ~~[Imposes various requirements relating to fire protection in the areas of the Lake Tahoe Basin and the Lake Mead Basin that are located in this State.]~~ **Makes various changes relating to fire protection.** (BDR 42-444)

AN ACT relating to fire protection; imposing various requirements relating to fire protection in the areas of the Lake Tahoe Basin and the Lake Mead Basin that are located in this State; requiring the State Forester Firewarden and State Fire Marshal to cooperate in the enforcement of certain laws and regulations; **authorizing the transfer of certain property by the State of Nevada to the Sierra Fire Protection District;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law charges the State Forester Firewarden with overseeing various fire protection activities for the State. (Chapter 472 of NRS) Existing law also provides for the creation of various types of fire protection districts. (Chapters 318, 473 and 474 of NRS) Existing law sets forth the duties of the State Forester Firewarden. (NRS 472.040) **Section 2** of this bill expands those duties to include cooperating with the State Fire Marshal in enforcing laws and adopting regulations, assessing codes, rules and regulations of certain agencies to ensure they are consistent with other fire codes, rules and regulations and ensuring that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS. Existing law requires the State Fire Marshal to cooperate with the State Forester Firewarden to prepare certain regulations. (NRS 477.030) **Section 4** of this bill expands that requirement to include regulations relating to the mitigation of the fire hazard risk posed by vegetation in the Lake Tahoe Basin and the Lake Mead Basin. **Section 5** of this bill requires the State Forester Firewarden to review and evaluate the laws and regulations of this State to: (1) ensure that such fire protection districts have adequate

statutory and regulatory authority to carry out the regulations adopted pursuant to this bill and to carry out necessary fire safety and fire prevention activities; and (2) ensure that there are adequate mechanisms to increase the funding of the fire prevention districts, if necessary, to enforce the regulations and that adequate funding exists to carry out their responsibilities. The State Forester Firewarden is required to submit a report of its review and evaluation and any recommendations for legislation to the Director of the Legislative Counsel Bureau by January 1, 2011, for submission to the 2011 Legislature.

Section 7 of this bill authorizes the transfer of certain property owned by the State of Nevada to the Sierra Fire Protection District.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 472.040 is hereby amended to read as follows:

472.040 1. The State Forester Firewarden shall:

(a) Supervise or coordinate all forestry and watershed work on state-owned and privately owned lands, including fire control, in Nevada, working with federal agencies, private associations, counties, towns, cities or private persons.

(b) Administer all fire control laws and all forestry laws in Nevada outside of townsite boundaries, and perform any other duties designated by the Director of the State Department of Conservation and Natural Resources or by state law.

(c) Assist and encourage county or local fire protection districts to create legally constituted fire protection districts where they are needed and offer guidance and advice in their operation.

(d) Designate the boundaries of each area of the State where the construction of buildings on forested lands creates such a fire hazard as to require the regulation of roofing materials.

(e) Adopt and enforce regulations relating to standards for fire retardant roofing materials to be used in the construction, alteration, change or repair of buildings located within the boundaries of fire hazardous forested areas.

(f) Purchase communication equipment which can use the microwave channels of the state communications system and store this equipment in regional locations for use in emergencies.

(g) Administer money appropriated and grants awarded for fire prevention, fire control and the education of firefighters and award grants of money for those purposes to fire departments and educational institutions in this State.

(h) Determine the amount of wages that must be paid to offenders who participate in conservation camps and who perform work relating to fire fighting and other work projects of conservation camps.

(i) Cooperate with the State Fire Marshal in the enforcement of all laws and the adoption of regulations relating to the prevention of fire through the management of vegetation in counties located within or partially within the Lake Tahoe Basin and the Lake Mead Basin.

(j) Assess the codes, rules and regulations which are adopted by other agencies that have specific regulatory authority within the Lake Tahoe Basin and the Lake Mead Basin, and which are not subject to the authority of a state or local fire agency, for consistency with fire codes, rules and regulations.

(k) Ensure that any adopted regulations are consistent with those of fire protection districts created pursuant to chapter 318, 473 or 474 of NRS.

2. The State Forester Firewarden in carrying out the provisions of this chapter may:

(a) Appoint paid foresters and firewardens to enforce the provisions of the laws of this State respecting forest and watershed management or the protection of forests and other lands from fire, subject to the approval of the board of county commissioners of each county concerned.

(b) Appoint suitable citizen-wardens. Citizen-wardens serve voluntarily except that they may receive compensation when an emergency is declared by the State Forester Firewarden.

(c) Appoint, upon the recommendation of the appropriate federal officials, resident officers of the United States Forest Service and the United States Bureau of Land Management as voluntary firewardens. Voluntary firewardens are not entitled to compensation for their services.

(d) Appoint certain paid foresters or firewardens to be arson investigators.

(e) Employ, with the consent of the Director of the State Department of Conservation and Natural Resources, clerical assistance, county and district coordinators, patrolmen, firefighters, and other employees as needed, and expend such sums as may be necessarily incurred for this purpose.

(f) Purchase, or acquire by donation, supplies, material, equipment and improvements necessary to fire protection and forest and watershed management.

(g) With the approval of the Director of the State Department of Conservation and Natural Resources and the State Board of Examiners, purchase or accept the donation of real property to be used for lookout sites and for other administrative, experimental or demonstration purposes. No real property may be purchased or accepted unless an examination of the title shows the property to be free from encumbrances, with title vested in the grantor. The title to the real property must be examined and approved by the Attorney General.

(h) Expend any money appropriated by the State to the Division of Forestry of the State Department of Conservation and Natural Resources for paying expenses incurred in fighting fires or in emergencies which threaten human life.

3. The State Forester Firewarden, in carrying out the powers and duties granted in this section, is subject to administrative supervision by the Director of the State Department of Conservation and Natural Resources.

Sec. 3. NRS 472.041 is hereby amended to read as follows:

472.041 1. The State Forester Firewarden may:

(a) In a district formed pursuant to NRS 473.034; and

(b) In an area designated pursuant to paragraph (d) of subsection 1 of NRS 472.040, including ***, without limitation,*** any land within the 1/2-mile radius surrounding such an area,

➥ enforce ~~[the provisions of Appendix II-A of the Uniform Fire Code of the International Conference of Building Officials in the form most recently adopted by that conference before July 1, 1985, regarding the clearance]~~ ***all regulations relating to the reduction*** of brush, dense undergrowth and other vegetation around and adjacent to a structure to reduce the exposure of the structure to fire and radiant heat and increase the ability of firefighters to protect the structure.

2. The enforcement of these provisions must permit the planting of grass, trees, ornamental shrubbery or other plants used to stabilize the soil and prevent erosion so long as the plants do not form a means of rapidly transmitting fire from native growth to any structure.

Sec. 4. 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 ~~[.]~~ ***and the mitigation of the risk of a fire hazard from vegetation in counties within or partially within the Lake Tahoe Basin and the Lake Mead Basin.***

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

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

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

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

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

(c) Cooperate with the Commissioner of Insurance, the Attorney General and the Fraud Control Unit established pursuant to NRS 228.412 in any

investigation of a fraudulent claim under an insurance policy for any fire of a suspicious nature.

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

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

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

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

9. The State Fire Marshal shall:

(a) 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. 5. 1. The State Forester Firewarden shall review and evaluate the laws and regulations of this State to ensure that adequate statutory and regulatory authority exists for each fire protection district, located in whole or in part in the areas of the Lake Tahoe Basin and the Lake Mead Basin in this State, that is created pursuant to chapter 318, 473 or 474 of NRS to carry out the regulations adopted pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040 and to carry out any necessary fire safety and fire prevention activities. The review and evaluation must also include a determination of whether such fire protection districts have adequate funding to carry out their responsibilities and whether one or more statutory mechanisms exist to increase the funding, if necessary, to ensure the enforcement of the regulations adopted pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040.

2. On or before January 1, 2011, the State Forester Firewarden shall submit a report which includes a summary of the review and evaluation conducted pursuant to subsection 1 and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmittal to the Legislature. The Director shall cause the report to be made available to each Senator and Assemblyman of the 2011 Legislature.

Sec. 6. The State Forester Firewarden shall adopt the regulations required pursuant to paragraphs (i), (j) and (k) of subsection 1 of NRS 472.040 and complete the review and evaluation of the laws and regulations of this State required pursuant to section 5 of this act not later than July 1, 2010.

Sec. 7. **1. The State Land Registrar may transfer to the Sierra Fire Protection District, without consideration, all the interest of the State of Nevada in the real property which is commonly known as the Peavine Fire Station, situated in the County of Washoe, State of Nevada, and is described as follows:**

Beginning at a point on the South line of Section 2, Twp. 20 N., Rge 18 E., M.D.B. & M., said point being 50' West from the Southeast Corner of said Section 2; Thence West along said South line of Section 2 a distance of 210.00 feet; Thence Northerly and parallel to the East line of said Section 2, 208.00 feet; Thence East and parallel to said South line of

Section 2, 210.00 feet; Thence South and parallel to said East line of Section 2, 208.00 feet to the point of beginning being an area of one acre, more or less, and situate in the Southeast Quarter (SE1/4) of the Southeast Quarter (SE1/4) of said Section 2.

2. If the real property is transferred to the Sierra Fire Protection District pursuant to subsection 1, the Sierra Fire Protection District shall pay the costs relating to the transfer of the real property.

3. If the real property is transferred to the Sierra Fire Protection District pursuant to subsection 1, the deed from the State of Nevada to the Sierra Fire Protection District must:

(a) Include restrictions that:

(1) Require the use of the property for the provision of services for fire protection and related public safety services; and

(2) Prohibit the Sierra Fire Protection District or any successor in title from transferring the property without the consent of the State of Nevada.

(b) Provide for the reversion of title to the property to the State of Nevada upon the breach of any restriction specified in this subsection.

Sec. 8. **1. This section and section 7 of this act become effective upon passage and approval.**

2. Sections 1 to 6, inclusive, of this act become effective on October 1, 2009.

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 173.

Bill read second time.

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

Amendment No. 734.

AN ACT relating to local governmental planning; providing for the construction of bus turnouts at certain locations in certain counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the regional transportation commission in a county whose population is 400,000 or more (currently Clark County) has the authority to provide for the construction and maintenance of benches and shelters for passengers of public mass transportation. (NRS 373.1183) Additionally, the regional transportation commission is required to work with the regional planning coalition concerning plans for capital improvements. (NRS 278.02584)

Section 1 of this bill requires that the regional transportation commission in a county whose population is 400,000 or more designate, on or before December 31, 2009, 10 bus stops at which a bus turnout—an area for loading

and unloading passengers outside of the lanes of traffic—must be constructed by December 31, 2012. Such a bus turnout must be constructed on land owned by the State or a local government. The commission must fund the construction of the bus turnout. ~~[On and after January 1, 2013, section 4 of this bill provides that the commission may designate annually up to four locations at which a bus turnout must be constructed within 1 year. Pursuant to section 4, the county and the three largest incorporated cities within the county would each fund the construction of one of the four bus turnouts.]~~

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

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

1. Not later than December 31, 2009:

(a) Except as otherwise provided in subsection 5, the commission shall designate 10 locations in the county that are owned by the State or by local governments and at which a bus turnout must be constructed pursuant to this section; and

(b) For each location designated pursuant to paragraph (a), the commission and the State or the local government that owns the location shall execute an interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location.

2. For each location designated pursuant to subsection 1, the commission and the State or the local government that owns the location shall ensure that a bus turnout is constructed not later than December 31, 2012.

3. The commission shall fund the construction of a bus turnout built pursuant to this section.

4. When determining the locations to be designated pursuant to subsection 1, the commission shall consider, without limitation:

(a) The amount of traffic congestion at the location during hours of peak traffic;

(b) The extent of improvements to the location that would need to be completed before the bus turnout could be constructed;

(c) The proximity of the location to an intersection;

(d) The frequency with which buses receive and discharge passengers at the location;

(e) The number of bus passengers regularly using the bus stop at the location;

(f) The general need for a bus turnout at the location; and

(g) Any obstacle that may prevent the completion of the construction of a bus turnout by the date set forth in subsection 2.

5. The commission shall not designate more than three locations pursuant to subsection 1 that are owned by the State or by the same local government.

6. As used in this section:

(a) "Bus" has the meaning ascribed to it in NRS 484.021.

(b) "Bus turnout" means a fixed area that is:

(1) Adjacent or appurtenant to, or within reasonable proximity of, a public highway; and

(2) To be occupied exclusively by buses in receiving or discharging passengers.

(c) "Commission" means the regional transportation commission created and organized pursuant to chapter 373 of NRS in a county whose population is 400,000 or more.

(d) "Local government" means any political subdivision of the State, including, without limitation, any county, city, town, board, airport authority, fire protection district, irrigation district, school district, hospital district or other special district which performs a governmental function and which is located within the jurisdiction of the commission.

(e) "Location" means a parcel of real property which:

(1) Is owned by the State or by a local government;

(2) Is adjacent to a public highway; and

(3) Contains a bench, shelter or transit stop for passengers of public transportation.

(f) "Public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.

Sec. 2. NRS 278.02507 is hereby amended to read as follows:

278.02507 The provisions of NRS 278.02507 to 278.02598, inclusive, ***and section 1 of this act*** apply only to counties whose population is 400,000 or more and cities located within those counties.

Sec. 3. (Deleted by amendment.)

Sec. 4. ~~[Section 1 of this act is hereby amended to read as follows:~~

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

~~1. [Not later than December 31, 2009:~~

~~(a)] Except as otherwise provided in subsection [5,] 7, the commission [shall designate 10 locations in] may require the county [that are owned by the State or by local governments and at which a] and the three largest incorporated cities in the county to each construct annually one bus turnout [must be constructed pursuant to this section; and~~

~~(b) For each location designated pursuant to paragraph (a),] at the locations designated by the commission . [and the State or the local government that owns the location shall execute an interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location.]~~

~~2. [For each] If a location designated pursuant to subsection 1 [, the commission] is not owned by the county or city, the county or city and the State or the local government that owns the location shall execute an~~

interlocal or cooperative agreement that authorizes the construction of a bus turnout at the location.

3. The county or city shall ensure that a bus turnout is constructed not later than **[**December 31, 2012.

3. The commission**]** ***1 year after the date on which the commission designates the location pursuant to subsection 1.***

4. The county or city, as the case may be, shall fund the construction of a bus turnout **[**built**]** ***required*** pursuant to this section.

[4. When determining**]**

5. The commission shall:

(a) Compile a list of locations, in order of priority, that the commission may designate pursuant to subsection 1;

(b) Post the list on the Internet website maintained by the commission, if any; and

(c) Annually update the list.

6. When compiling the ***list of*** locations **[**to be designated**]** pursuant to subsection **[**1,**]** ***5,*** the commission shall consider, without limitation:

(a) The amount of traffic congestion at the location during hours of peak traffic;

(b) The extent of improvements to the location that would need to be completed before the bus turnout could be constructed;

(c) The proximity of the location to an intersection;

(d) The frequency with which buses receive and discharge passengers at the location;

(e) The number of bus passengers regularly using the bus stop at the location;

(f) The general need for a bus turnout at the location; and

(g) Any obstacle that may prevent the completion of the construction of a bus turnout.**[**by the date set forth in subsection 2.

5.**]** ***7.*** The commission shall not designate more than **[**three locations**]** ***one location*** pursuant to subsection 1 that **[**are**]** ***is*** owned by the State or by the same local government.

[6.**]** ***8.*** As used in this section:

(a) "Bus" has the meaning ascribed to it in NRS 484.021.

(b) "Bus turnout" means a fixed area that is:

(1) Adjacent or appurtenant to, or within reasonable proximity of, a public highway; and

(2) To be occupied exclusively by buses in receiving or discharging passengers.

(c) "Commission" means the regional transportation commission created and organized pursuant to chapter 373 of NRS in a county whose population is 400,000 or more.

(d) "Local government" means any political subdivision of the State, including, without limitation, any county, city, town, board, airport authority, fire protection district, irrigation district, school district, hospital district or

~~other special district which performs a governmental function and which is located within the jurisdiction of the commission.~~

~~(e) "Location" means a parcel of real property which:~~

~~(1) Is owned by the State or by a local government;~~

~~(2) Is adjacent to a public highway; and~~

~~(3) Contains a bench, shelter or transit stop for passengers of public transportation.~~

~~(f) "Public highway" means any street, road, alley, thoroughfare, way or place of any kind used by the public or open to the use of the public as a matter of right for the purpose of vehicular traffic.~~**] (Deleted by amendment.)**

Sec. 5. The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.

Sec. 6. ~~[1. This section and sections 1, 2 and 5 of this act become~~**] This act becomes** effective on July 1, 2009.

~~[2. Section 4 of this act becomes effective on January 1, 2013, and expires by limitation on December 31, 2023.]~~

Assemblywoman Kirkpatrick moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 430.

Bill read third time.

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

Amendment No. 807.

AN ACT relating to children's products; prohibiting the advertisement, sale, lease, sublet or distribution of children's products under certain circumstances; prohibiting certain commercial activity regarding unsafe cribs; providing that a violation of provisions relating to unsafe cribs or to children's products is a deceptive trade practice; ~~[authorizing the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General to ban or designate as a health or safety hazard any children's product;]~~ providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 7 of this bill provides that a retailer of a new or used product intended for children under 12 years of age may not advertise, sell or offer for sale, lease, sublet or otherwise distribute the product if the product is subject to a recall notice, is subject to a warning indicating that the use of the product constitutes a health or safety hazard or has been banned or designated as a health or safety hazard by the United States Consumer Product Safety Commission ~~[, the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General]~~ or the

manufacturer of the product. **Section 7** also requires a retailer to subscribe to or arrange to receive recall notices and warnings issued by the United States Consumer Product Safety Commission and manufacturers from whom the retailer receives children's products. **Section 7** further requires a retailer to comply with all instructions issued for the disposal, return, repair, retrofitting, labeling or remediation of children's products which are the subject of a recall notice or other warning. **Section 18** of this bill makes it a deceptive trade practice for a person to knowingly and willfully violate any provision relating to unsafe cribs or to children's products that are subject to a recall notice or a warning, which therefore puts such violations within the purview of the provisions in chapter 598 of NRS that impose civil and criminal penalties. (NRS 598.092) ~~[Section 19 of this bill authorizes the Consumer's Advocate to ban or designate as a health or safety hazard any children's product. (NRS 228.390)]~~

Sections 9-17 of this bill establish the Infant Crib Safety Act. **Section 14** prohibits persons from remanufacturing, retrofitting, selling, contracting to sell or resell, subletting or otherwise placing in the stream of commerce a crib that is unsafe for use by an infant. **Section 14** also describes the types of cribs that are presumed unsafe. **Section 15** establishes civil penalties for persons who violate any provision relating to unsafe cribs. **Section 16** exempts antique or vintage cribs from the provisions relating to unsafe cribs if such a crib is accompanied with a written notice provided by a commercial user stating that it is not intended for use by an infant. **Section 16** further releases from liability any commercial user who complies with the notice requirement. **Section 17** authorizes any person to maintain an action against a commercial user who violates any provision relating to unsafe cribs.

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

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 8, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Children's product" means a consumer product that is designed or intended:***

1. For the care of or use by a child under 12 years of age; or

2. To come into physical contact with a child under 12 years of age at the time the product is used.

➥ For the purposes of this subsection, "children's product" does not include any medication, drug, food or other product that is intended to be ingested.

Sec. 4. ~~***["Consumer's Advocate" means the Consumer's Advocate of the Bureau of Consumer Protection in the Office of the Attorney General.]***~~ **(Deleted by amendment.)**

Sec. 5. ***"Retailer" means a person who, in the ordinary course of his business, advertises, sells or offers for sale, leases, sublets or otherwise distributes a new or used children's product to consumers in this State, including, without limitation, thrift stores, second-hand stores and consignment stores.***

Sec. 6. ***"Warning" means a communication which is about a health or safety hazard that a children's product poses to consumers and which is:***

1. Directed to a retailer; and

2. Intended to inform the retailer about the health or safety hazard, instruct the retailer to remove the children's product from the retailer's inventory or provide the retailer with a method to eliminate the health or safety hazard from the children's product.

➥ For the purposes of this section, "warning" does not include a communication which is directed to consumers and affixed to the children's product or any packaging material for the children's product or provided by the retailer to the consumer as part of a transaction relating to the children's product.

Sec. 7. ***1. A retailer shall not advertise, sell or offer for sale, lease, sublet or otherwise distribute a children's product to consumers in this State if the children's product is:***

(a) Subject to a recall notice issued by or in cooperation with the United States Consumer Product Safety Commission or its successor agency; or

(b) The subject of a warning issued by the manufacturer of the children's product or the United States Consumer Product Safety Commission or its successor agency indicating that the intended use of the children's product constitutes a health or safety hazard, unless the retailer has eliminated the hazard in strict compliance with any standards and instructions that are provided in or related to the warning . [; or

~~*(c) Banned or designated as a health or safety hazard by the Consumer's Advocate pursuant to NRS 228.380.]*~~

2. A retailer shall:

(a) Subscribe to or arrange to receive recall notices and warnings issued by the United States Consumer Product Safety Commission or its successor agency and manufacturers from whom the retailer receives children's products;

(b) Dispose of any children's product identified in a recall notice or a warning issued by or in cooperation with the United States Consumer Product Safety Commission or its successor agency [, the Consumer's Advocate] or the manufacturer of the children's product in strict compliance with disposal instructions included with or related to the recall notice or the warning; and

(c) Comply strictly with instructions issued with or related to a recall notice or a warning issued by the United States Consumer Product Safety Commission or its successor agency [, the Consumer's Advocate] or the

manufacturer of the children's product for the return, repair, retrofitting, labeling or remediation of any children's product.

Sec. 8. (Deleted by amendment.)

Sec. 9. ***Sections 9 to 17, inclusive, of this act may be referred to as the Infant Crib Safety Act.***

Sec. 10. ***As used in sections 9 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 11, 12 and 13 of this act have the meanings ascribed to them in those sections.***

Sec. 11. ***"Commercial user" means any person, firm, corporation, association or nonprofit corporation, or any agent or employee thereof, including, without limitation, a child care facility licensed and in good standing pursuant to chapter 432A of NRS, who:***

1. Deals in cribs of the kind governed by sections 9 to 17, inclusive, of this act;

2. By virtue of the person's occupation, purports to have knowledge or skill peculiar to cribs of the kind governed by sections 9 to 17, inclusive, of this act; or

3. Is in the business of remanufacturing, retrofitting, selling, leasing, subletting or otherwise placing cribs in the stream of commerce.

Sec. 12. ***"Crib" means:***

1. Any full-size baby crib as described in 16 C.F.R. 1508.3; or

2. Any non-full-size baby crib as that term is defined in 16 C.F.R. 1509.2(b).

Sec. 13. ***"Infant" means a child who is under 3 years of age.***

Sec. 14. ***1. A person, including, without limitation, a commercial user, shall not remanufacture, retrofit, sell, contract to sell or resell, lease, sublet or otherwise place in the stream of commerce a crib that is unsafe for use by an infant.***

2. A crib is presumed to be unsafe if it does not conform to the standards set forth in:

(a) 16 C.F.R. Part 1303;

(b) 16 C.F.R. Part 1508;

(c) 16 C.F.R. Part 1509; and

(d) The American Society for Testing and Materials voluntary standards F966-90, F1169.88 and F406.

3. Cribs that are presumed to be unsafe pursuant to subsection 2 also include, without limitation, cribs with one or more of the following features or characteristics:

(a) Corner posts that extend more than 1/16 of an inch;

(b) Spaces between side slats more than 2 3/8 inches;

(c) Mattress supports that can be easily dislodged from any point of the crib;

(d) Cutout designs on the end panels;

(e) Rail height dimensions that do not conform to the following:

(1) The height of the rail and end panel as measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position is at least 9 inches; or

(2) The height of the rail and end panel as measured from the top of the rail or panel in its highest position to the top of the mattress support in its lowest position is at least 26 inches;

(f) Any screw, bolt or hardware that is loose or not secured;

(g) Sharp edges, points, rough surfaces or any wood surfaces that are not smooth and free from splinters, splits or cracks; or

(h) Tears in mesh or fabric sides.

4. For the purposes of paragraph (c) of subsection 3, a mattress support is deemed to be easily dislodged if it cannot withstand a 25-pound upward force from beneath the crib.

Sec. 15. ***1. A commercial user who willfully and knowingly sells, leases or otherwise places in the stream of commerce an unsafe crib as described in section 14 of this act commits an offense punishable by a fine not to exceed $1,000.***

2. A person other than a commercial user who willfully and knowingly sells, leases or otherwise places in the stream of commerce an unsafe crib as described in section 14 of this act commits an offense punishable by a fine not to exceed $200.

Sec. 16. ***1. The provisions of sections 9 to 15, inclusive, of this act do not apply to any antique or vintage crib if the antique or vintage crib is:***

(a) Not intended for use by an infant; and

(b) At the time of remanufacturing, retrofitting, selling, leasing, subletting or otherwise placing in the stream of commerce, is accompanied with a written notice provided by the commercial user stating that the crib is not intended for use by an infant and that the crib is dangerous for use by an infant.

2. A commercial user who complies with the notice requirement in subsection 1 shall not be held liable for any death or injury as a result of the use of an antique or vintage crib in a manner inconsistent with the warning provided in the written notice.

3. As used in this section, "antique or vintage crib" means a crib that is:

(a) Fifty years or older, as measured from the current year;

(b) Maintained as a collector's item; and

(c) Not intended for use by an infant.

Sec. 17. ***In addition to any other remedy provided by law, any person may maintain an action against a commercial user who violates the provisions of section 14 of this act, seek to enjoin the remanufacture, retrofitting, sale, contract to sell or resell, lease or subletting of a crib that is unsafe for an infant and seek reasonable attorney's fees and costs.***

Sec. 18. 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 and willfully violates section 7 or 14 of this act.

Sec. 19. ~~[NRS 228.380 is hereby amended to read as follows:~~

~~228.380 1. Except as otherwise provided in this section, the Consumer's Advocate may exercise the power of the Attorney General in areas of consumer protection, including, but not limited to, enforcement of chapters 90, 597, 598, 598A, 598B, 598C, 599B and 711 of NRS.~~

~~2. The Consumer's Advocate may not exercise any powers to enforce any criminal statute set forth in:~~

~~(a) Chapter 90, 597, 598, 598A, 598B, 598C or 599B of NRS for any transaction or activity that involves a proceeding before the Public Utilities Commission of Nevada if the Consumer's Advocate is participating in that proceeding as a real party in interest on behalf of the customers or a class of customers of utilities; or~~

~~(b) Chapter 711 of NRS.~~

~~3. The Consumer's Advocate may expend revenues derived from NRS 704.033 only for activities directly related to the protection of customers of public utilities.~~

~~4. The powers of the Consumer's Advocate do not extend to proceedings before the Public Utilities Commission of Nevada directly relating to discretionary or competitive telecommunication services.~~

~~***5. For the purposes of sections 2 to 8, inclusive, of this act, the Consumer's Advocate may ban or designate as a health or safety hazard any children's product. The Consumer's Advocate may adopt any regulations necessary to carry out the provisions of this subsection. As used in this subsection, "children's product" has the meaning ascribed to it in section 3 of this act.]***~~ **(Deleted by amendment.)**

Assemblyman Arberry moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Assembly Bill No. 430 just returned from the printer, be placed at the top of General File for third reading and final passage.

Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 430.

Bill read third time.

Roll call on Assembly Bill No. 430:

YEAS—42.

NAYS—None.

Assembly Bill No. 430 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 68.

Bill read third time.

The following amendment was proposed by Assemblyman Anderson:

Amendment No. 877.

AN ACT relating to real property; establishing the responsibility for the maintenance of certain security walls within certain common-interest communities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill revises the responsibilities of unit-owners' associations of certain common-interest communities to provide that each such association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community. **Section 2** of this bill similarly revises the law with respect to such security walls located in such common-interest communities which are governed by certain limited-purpose associations. (NRS 116.1201) **Section 6 of this bill provides that if a common-interest community was created before October 1, 2009, the requirements of the bill do not apply to the common-interest community until January 1, 2013.**

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. Except as otherwise provided in NRS 116.31135, the association is responsible for the maintenance, repair, restoration and replacement of any security wall which is located within the common-interest community.

2. As used in this section, "security wall" means any wall composed of stone, brick, concrete, concrete blocks, masonry or similar building material, including, without limitation, ornamental iron or other fencing

material, together with footings, pilasters, outriggers, grillwork, gates and other appurtenances, constructed around the perimeter of a residential subdivision with respect to which a final map has been recorded pursuant to NRS 278.360 to 278.460, inclusive, to protect the several tracts in the subdivision and their occupants from vandalism.

Sec. 2. NRS 116.1201 is hereby amended to read as follows:

116.1201 1. Except as otherwise provided in this section and NRS 116.1203, this chapter applies to all common-interest communities created within this State.

2. This chapter does not apply to:

(a) A limited-purpose association, except that a limited-purpose association:

(1) Shall pay the fees required pursuant to NRS 116.31155;

(2) Shall register with the Ombudsman pursuant to NRS 116.31158;

(3) Shall comply with the provisions of:

(I) NRS 116.31038, 116.31083 and 116.31152; ~~[and]~~

(II) ***Section 1 of this act, if the limited-purpose association is created for maintaining the landscape of the common elements of the common-interest community; and***

(III) NRS 116.31075, if the limited-purpose association is created for a rural agricultural residential common-interest community;

(4) Shall comply with the provisions of NRS 116.4101 to 116.412, inclusive, as required by the regulations adopted by the Commission pursuant to paragraph (b) of subsection 5; and

(5) Shall not enforce any restrictions concerning the use of units by the units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

(b) A planned community in which all units are restricted exclusively to nonresidential use unless the declaration provides that this chapter does apply to that planned community. This chapter applies to a planned community containing both units that are restricted exclusively to nonresidential use and other units that are not so restricted only if the declaration so provides or if the real estate comprising the units that may be used for residential purposes would be a planned community in the absence of the units that may not be used for residential purposes.

(c) Common-interest communities or units located outside of this State, but the provisions of NRS 116.4102 to 116.4108, inclusive, apply to all contracts for the disposition thereof signed in this State by any party unless exempt under subsection 2 of NRS 116.4101.

(d) A common-interest community that was created before January 1, 1992, is located in a county whose population is less than 50,000, and has less than 50 percent of the units within the community put to residential use, unless a majority of the units' owners otherwise elect in writing.

(e) Except as otherwise provided in this chapter, time shares governed by the provisions of chapter 119A of NRS.

3. The provisions of this chapter do not:

(a) Prohibit a common-interest community created before January 1, 1992, from providing for separate classes of voting for the units' owners;

(b) Require a common-interest community created before January 1, 1992, to comply with the provisions of NRS 116.2101 to 116.2122, inclusive;

(c) Invalidate any assessments that were imposed on or before October 1, 1999, by a common-interest community created before January 1, 1992; or

(d) Prohibit a common-interest community created before January 1, 1992, or a common-interest community described in NRS 116.31105 from providing for a representative form of government.

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

5. The Commission shall establish, by regulation:

(a) The criteria for determining whether an association, a limited-purpose association or a common-interest community satisfies the requirements for an exemption or limited exemption from any provision of this chapter; and

(b) The extent to which a limited-purpose association must comply with the provisions of NRS 116.4101 to 116.412, inclusive.

6. As used in this section, "limited-purpose association" means an association that:

(a) Is created for the limited purpose of maintaining:

(1) The landscape of the common elements of a common-interest community;

(2) Facilities for flood control; or

(3) A rural agricultural residential common-interest community; and

(b) Is not authorized by its governing documents to enforce any restrictions concerning the use of units by units' owners, unless the limited-purpose association is created for a rural agricultural residential common-interest community.

Sec. 3. NRS 116.1203 is hereby amended to read as follows:

116.1203 1. Except as otherwise provided in subsection 2, if a planned community contains no more than 12 units and is not subject to any developmental rights, it is subject only to NRS 116.1106 and 116.1107 unless the declaration provides that this entire chapter is applicable.

2. Except for NRS 116.3104, 116.31043, 116.31046 and 116.31138, the provisions of NRS 116.3101 to 116.350, inclusive, ***and section 1 of this act,*** and the definitions set forth in NRS 116.005 to 116.095, inclusive, to the extent that such definitions are necessary in construing any of those provisions, apply to a residential planned community containing more than six units.

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. **Notwithstanding the amendatory provisions of this act, if a common-interest community was created before October 1, 2009, the**

amendatory provisions of this act do not apply to the common-interest community until January 1, 2013.

Assemblyman Anderson moved the adoption of the amendment.

Remarks by Assemblyman Anderson.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 248.

Bill read third time.

Remarks by Assemblyman Bobzien.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 248:

YEAS—42.

NAYS—None.

Senate Bill No. 248 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 267.

Bill read third time.

Remarks by Assemblywoman Kirkpatrick.

Roll call on Senate Bill No. 267:

YEAS—42.

NAYS—None.

Senate Bill No. 267 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 305.

Bill read third time.

Remarks by Assemblywoman Leslie.

Roll call on Senate Bill No. 305:

YEAS—39.

NAYS—Carpenter, Christensen, Gansert—3.

Senate Bill No. 305 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 351.

Bill read third time.

Remarks by Assemblyman Segerblom.

Roll call on Senate Bill No. 351:

YEAS—42.

NAYS—None.

Senate Bill No. 351 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 409.
Bill read third time.
Roll call on Senate Bill No. 409:
YEAS—42.
NAYS—None.
Senate Bill No. 409 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Joint Resolution No. 2.
Resolution read third time.
Remarks by Assemblyman Settelmeyer.
Roll call on Senate Joint Resolution No. 2:
YEAS—42.
NAYS—None.
Senate Joint Resolution No. 2 having received a constitutional majority, Madam Speaker declared it passed.
Resolution ordered transmitted to the Senate.

Senate Joint Resolution No. 3.
Resolution read third time.
Remarks by Assemblywoman Kirkpatrick.
Roll call on Senate Joint Resolution No. 3:
YEAS—42.
NAYS—None.
Senate Joint Resolution No. 3 having received a constitutional majority, Madam Speaker declared it passed.
Resolution ordered transmitted to the Senate.

Senate Joint Resolution No. 4.
Resolution read third time.
Remarks by Assemblywoman Smith.
Roll call on Senate Joint Resolution No. 4:
YEAS—42.
NAYS—None.
Senate Joint Resolution No. 4 having received a constitutional majority, Madam Speaker declared it passed.
Resolution ordered transmitted to the Senate.

Senate Joint Resolution No. 9.
Resolution read third time.
Remarks by Assemblyman Ohrenschall.
Roll call on Senate Joint Resolution No. 9:
YEAS—42.
NAYS—None.
Senate Joint Resolution No. 9 having received a constitutional majority, Madam Speaker declared it passed.
Resolution ordered transmitted to the Senate.

Senate Joint Resolution No. 2 of the 74th Session.

Resolution read third time.

Remarks by Assemblymen Carpenter, Anderson, Koivisto, Segerblom, Mortenson, and Horne.

Potential conflict of interest declared by Assemblywoman Dondero Loop.

Roll call on Senate Joint Resolution No. 2 of the 74th Session:

YEAS—29.

NAYS—Anderson, Carpenter, Christensen, Goedhart, Goicoechea, Grady, Gustavson, Manendo, McArthur, Ohrenschall, Parnell, Smith, Stewart—13.

Senate Joint Resolution No. 2 of the 74th Session having received a constitutional majority, Madam Speaker declared it passed.

Resolution 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 5:13 p.m.

ASSEMBLY IN SESSION

At 5:56 p.m.

Madam Speaker presiding.

Quorum present.

REPORTS OF COMMITTEES

Madam Speaker:

Your Committee on Ways and Means, to which was referred Assembly Bill No. 563, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

MORSE ARBERRY JR., *Chair*

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Parnell moved that Senate Bill No. 389 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Conklin moved that Senate Bill No. 230 be taken from the Chief Clerk's desk and placed on the General File.

Motion carried.

Assemblyman Oceguera moved that all rules be suspended, reading so far had considered second reading, rules further suspended, Assembly Bill No. 563 considered engrossed, declared an emergency measure under the *Constitution*, and placed on third reading and final passage.

Motion carried.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Conklin moved that Senate Bill No. 73 be taken from its position on the General File and placed at the bottom of the General File.

Motion carried.

Assemblyman Atkinson moved that Senate Bill No. 218 be taken from the Chief Clerk's desk and placed at the top of the General File.
Motion carried.

Assemblyman Oceguera moved that Assembly Bill No. 563 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. 563.
Bill read third time.
Remarks by Assemblywoman Smith.

Assemblyman Oceguera moved that the Assembly recess until 7 p.m.
Motion carried.

Assembly in recess at 6:13 p.m.

ASSEMBLY IN SESSION

At 7:14 p.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Smith moved that Assembly Bill No. 563 be taken from the General File and placed on the Chief Clerk's desk.
Motion carried.

Assemblyman Oceguera moved that all rules be suspended and the Assembly dispense with the reprinting of Senate Bills Nos. 55, 68, 89, 108, 176, 184, 190, 197, 218, 227, 230, 246, 310, 332, 338, 350, and 355.
Motion carried.

Assemblyman Oceguera moved that all rules be suspended and that Senate Bills Nos. 55, 89, 176, 184, 190, 197, 227, 230, 310, 332, 338, 350, 355, and 408 be declared emergency measures under the *Constitution* and immediately placed at the top of General File for third reading and final passage.
Motion carried.

Assemblyman Conklin moved that Senate Bill No. 363 be taken from the Chief Clerk's desk and placed on the General File.
Motion carried.

Assemblywoman Kirkpatrick moved that upon return from the printer, Senate Bill No. 173 be placed on the Chief Clerk's desk.
Motion carried.

Senate Bill No. 218.

Bill read third time.

The following amendment was proposed by Assemblyman Atkinson:

Amendment No. 881.

AN ACT relating to motor vehicles; specifically authorizing constables to issue citations for failure to register vehicles that are required to be registered in this State; increasing the fee to which constables are entitled for removing or causing the removal of abandoned vehicles from public property; revising the penalties for failure to register certain motor vehicles; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill specifically authorizes constables to issue citations for the failure to register a vehicle that is required by existing law to be registered in this State and requires constables to charge and collect a fee from the person to whom the citation is issued. The citation is to be issued to the owner of the vehicle or the driver if the driver is not the owner but is the party responsible for registering the vehicle pursuant to existing law. (NRS 258.070) **Sections 3 and 4** of this bill clarify that constables are entitled to demand and to view the certificate of registration and to request information to determine whether the vehicle is required to be registered in this State. (NRS 482.255, 482.385)

Section 2 of this bill increases the fee to which constables are entitled for their services of removing or causing the removal of an abandoned vehicle from public property from $50 to $100. ~~[Section 2 also increases the amount the constable may collect when collecting all sums on execution or writ charged against a defendant from 2 percent of the first $3,500 to 2 percent of the first $10,000.]~~ (NRS 258.125)

Existing law requires a person, within 60 days of becoming a resident of this State or at the time he obtains his driver's license, to apply for registration for each vehicle he owns which is operated in this State. (NRS 482.385) **Section 4** of this bill increases the fine for failing to comply with that requirement from a minimum of $250 and a maximum of $500 to a $1,000 fine, and provides that the fine may be reduced to not less than $200 if the person provides proof of registration of the vehicle in Nevada at the time of his hearing.

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

Section 1. NRS 258.070 is hereby amended to read as follows:

258.070 1. Each constable shall:

(a) Be a peace officer in his township.

(b) Serve all mesne and final process issued by a court of competent jurisdiction.

(c) Execute the process, writs or warrants that he is authorized to receive pursuant to NRS 248.100.

(d) Discharge such other duties as are or may be prescribed by law.

2. ***Pursuant to the procedures and subject to the limitations set forth in chapters 482 and 484 of NRS, a constable may issue a citation to an owner or driver, as appropriate, of a vehicle that is required to be registered in this State if the constable determines that the vehicle is not properly registered. The constable shall, upon the issuance of such citation, charge and collect a fee of $100 from the person to whom the citation is issued, which may be retained by the constable as compensation.***

3. If a sheriff or his deputy in any county in this State arrests a person charged with a criminal offense or in the commission of an offense, the sheriff or his deputy shall serve all process, whether mesne or final, and attend the court executing the order thereof in the prosecution of the person so arrested, whether in a justice court or a district court, to the conclusion, and whether the offense is an offense of which a justice of the peace has jurisdiction, or whether the proceeding is a preliminary examination or hearing. The sheriff or his deputy shall collect the same fees and in the same manner therefor as the constable of the township in which the justice court is held would receive for the same service.

Sec. 2. NRS 258.125 is hereby amended to read as follows:

258.125 1. Constables are entitled to the following fees for their services:

For serving a summons or other process by which a suit is commenced in civil cases..... $17
For summoning a jury before a justice of the peace 7
For taking a bond or undertaking..... 5
For serving an attachment against the property of a defendant..... 9
For serving subpoenas, for each witness..... 15
For a copy of any writ, process or order or other paper, when demanded or required by law, per folio..... 3
For drawing and executing every constable's deed, to be paid by the grantee, who must also pay for the acknowledgment thereof..... 20
For each certificate of sale of real property under execution..... 5
For levying any writ of execution or writ of garnishment, or executing an order of arrest in civil cases, or order for delivery of personal property, with traveling fees as for summons 9
For serving one notice required by law before the commencement of a proceeding for any type of eviction 26
For serving not fewer than 2 nor more than 10 such notices to the same location, each notice 20
For serving not fewer than 11 nor more than 24 such notices to the same location, each notice $17
For serving 25 or more such notices to the same location, each notice 15

For mileage in serving such a notice, for each mile necessarily and actually traveled in going only 2
But if two or more notices are served at the same general location during the same period, mileage may only be charged for the service of one notice.
For each service in a summary eviction, except service of any notice required by law before commencement of the proceeding, and for serving notice of and executing a writ of restitution 21
For making and posting notices, and advertising property for sale on execution, not to include the cost of publication in a newspaper..... 9
For each warrant lawfully executed..... 48
For mileage in serving summons, attachment, execution, order, venire, subpoena, notice, summary eviction, writ of restitution or other process in civil suits, for each mile necessarily and actually traveled, in going only 2
But when two or more persons are served in the same suit, mileage may only be charged for the most distant, if they live in the same direction.
For mileage in making a diligent but unsuccessful effort to serve a summons, attachment, execution, order, venire, subpoena or other process in civil suits, for each mile necessarily and actually traveled, in going only 2
But mileage may not exceed $20 for any unsuccessful effort to serve such process.

2. A constable is also entitled to receive:

(a) For receiving and taking care of property on execution, attachment or order, his actual necessary expenses, to be allowed by the court which issued the writ or order, upon the affidavit of the constable that the charges are correct and the expenses necessarily incurred.

(b) For collecting all sums on execution or writ, to be charged against the defendant, on the first $3,500, ~~*[$10,000,]*~~ 2 percent thereof, and on all amounts over that sum, one-half of 1 percent.

(c) For service in criminal cases, except for execution of warrants, the same fees as are allowed sheriffs for like services, to be allowed, audited and paid as are other claims against the county.

(d) For removing or causing the removal of, pursuant to NRS 487.230, a vehicle that has been abandoned on public property, ~~[$50.]~~ ***$100.***

3. Deputy sheriffs acting as constables are not entitled to retain for their own use any fees collected by them, but the fees must be paid into the county treasury on or before the fifth working day of the month next succeeding the month in which the fees were collected.

4. Constables shall, on or before the fifth working day of each month, account for and pay to the county treasurer all fees collected during the preceding month, except fees which may be retained as compensation.

Sec. 3. NRS 482.255 is hereby amended to read as follows:

482.255 1. Upon receipt of a certificate of registration, the owner shall place it or a legible copy in the vehicle for which it is issued and keep it in the vehicle. If the vehicle is a motorcycle, trailer or semitrailer, he shall carry

the certificate in the tool bag or other convenient receptacle attached to the vehicle.

2. The owner or operator of a motor vehicle shall, upon demand, surrender the certificate of registration or the copy for examination to any peace officer, ***including a constable, or a*** justice of the peace or deputy of the Department.

3. No person charged with violating this section may be convicted if he produces in court a certificate of registration which was previously issued to him and was valid at the time of the demand.

Sec. 4. NRS 482.385 is hereby amended to read as follows:

482.385 1. Except as otherwise provided in subsection ~~[4]~~ ***5*** and NRS 482.390, a nonresident owner of a vehicle of a type subject to registration pursuant to the provisions of this chapter, owning any vehicle which has been registered for the current year in the state, country or other place of which the owner is a resident and which at all times when operated in this State has displayed upon it the registration license plate issued for the vehicle in the place of residence of the owner, may operate or permit the operation of the vehicle within this State without its registration in this State pursuant to the provisions of this chapter and without the payment of any registration fees to this State.

2. This section does not:

(a) Prohibit the use of manufacturers', distributors' or dealers' license plates issued by any state or country by any nonresident in the operation of any vehicle on the public highways of this State.

(b) Require registration of vehicles of a type subject to registration pursuant to the provisions of this chapter operated by nonresident common motor carriers of persons or property, contract motor carriers of persons or property, or private motor carriers of property as stated in NRS 482.390.

(c) Require registration of a vehicle operated by a border state employee.

3. When a person, formerly a nonresident, becomes a resident of this State, he shall:

(a) Within 60 days after becoming a resident; or

(b) At the time he obtains his driver's license,

➥ whichever occurs earlier, apply for the registration of each vehicle he owns which is operated in this State. When a person, formerly a nonresident, applies for a driver's license in this State, the Department shall inform the person of the requirements imposed by this subsection and of the penalties that may be imposed for failure to comply with the provisions of this subsection. A citation may be issued pursuant to this subsection only if the violation is discovered when the vehicle is halted or its driver arrested for another alleged violation or offense. ~~[A person who violates the provisions of this subsection is guilty of a misdemeanor and shall be punished by a fine of not less than $250 nor more than $500 and such fine is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested. In addition, the]~~ ***The*** Department

shall maintain or cause to be maintained a list or other record of persons who fail to comply with the provisions of this subsection and shall, at least once each month, provide a copy of that list or record to the Department of Public Safety.

4. ***A person who violates the provisions of subsection 3 is guilty of a misdemeanor and, except as otherwise provided in this subsection, shall be punished by a fine of $1,000. The fine imposed pursuant to this subsection is in addition to any fine or penalty imposed for the other alleged violation or offense for which the vehicle was halted or its driver arrested pursuant to subsection 3. The fine imposed pursuant to this subsection may be reduced to not less than $200 if the person presents evidence at the time of his hearing that he has registered the vehicle pursuant to this chapter.***

5. Any resident operating upon a highway of this State a motor vehicle which is owned by a nonresident and which is furnished to the resident operator for his continuous use within this State, shall cause that vehicle to be registered within 60 days after beginning its operation within this State.

~~[5.]~~ ***6.*** A person registering a vehicle pursuant to the provisions of subsection 3, ~~[4]~~ ***5*** or ~~[6]~~ ***7*** or pursuant to NRS 482.390:

(a) Must be assessed the registration fees and governmental services tax, as required by the provisions of this chapter and chapter 371 of NRS; and

(b) Must not be allowed credit on those taxes and fees for the unused months of his previous registration.

~~[6.]~~ ***7.*** If a vehicle is used in this State for a gainful purpose, the owner shall immediately apply to the Department for registration, except as otherwise provided in NRS 482.390, 482.395 and 706.801 to 706.861, inclusive.

~~[7.]~~ ***8.*** An owner registering a vehicle pursuant to the provisions of this section shall surrender the existing nonresident license plates and registration certificates to the Department for cancellation.

~~[8.]~~ ***9.*** A vehicle may be cited for a violation of this section regardless of whether it is in operation or is parked on a highway, in a public parking lot or on private property which is open to the public if, after communicating with the owner or operator of the vehicle, the peace officer issuing the citation determines that:

(a) The owner of the vehicle is a resident of this State; or

(b) The vehicle is used in this State for a gainful purpose.

As used in this subsection, "peace officer" includes a constable.

Assemblyman Atkinson moved the adoption of the amendment.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 55.

Bill read third time.

Roll call on Senate Bill No. 55:
YEAS—28.
NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.
Senate Bill No. 55 having received a two-thirds majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 68.
Bill read third time.
Roll call on Senate Bill No. 68:
YEAS—36.
NAYS—Gansert, Goedhart, Goicoechea, Gustavson, Hambrick, Settelmeyer—6.
Senate Bill No. 68 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 89.
Bill read third time.
Roll call on Senate Bill No. 89:
YEAS—41.
NAYS—None.
NOT VOTING—Carpenter.
Senate Bill No. 89 having received a two-thirds majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 108.
Bill read third time.
Remarks by Assemblyman Bobzien.
Roll call on Senate Bill No. 108:
YEAS—42.
NAYS—None.
Senate Bill No. 108 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 176.
Bill read third time.
Roll call on Senate Bill No. 176:
YEAS—42.
NAYS—None.
Senate Bill No. 176 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 184.
Bill read third time.

Roll call on Senate Bill No. 184:
YEAS—42.
NAYS—None.
Senate Bill No. 184 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 190.
Bill read third time.
Remarks by Assemblywoman Smith.
Roll call on Senate Bill No. 190:
YEAS—42.
NAYS—None.
Senate Bill No. 190 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 197.
Bill read third time.
Roll call on Senate Bill No. 197:
YEAS—42.
NAYS—None.
Senate Bill No. 197 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 227.
Bill read third time.
Remarks by Assemblywoman Kirkpatrick.
Roll call on Senate Bill No. 227:
YEAS—42.
NAYS—None.
Senate Bill No. 227 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 246.
Bill read third time.
Remarks by Assemblymen Gansert and Atkinson.

Madam Speaker announced if there were no objections, the Assembly would recess subject to the call of the Chair.

Assembly in recess at 7:35 p.m.

ASSEMBLY IN SESSION

At 7:37 p.m.
Madam Speaker presiding.
Quorum present.

Remarks by Assemblywoman Spiegel.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 246:

YEAS—28.

NAYS—Carpenter, Christensen, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Stewart, Woodbury—14.

Senate Bill No. 246 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 310.

Bill read third time.

Roll call on Senate Bill No. 310:

YEAS—36.

NAYS—Cobb, Goedhart, Gustavson, McArthur, Settelmeyer, Woodbury—6.

Senate Bill No. 310 having received a two-thirds majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 332.

Bill read third time.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Atkinson moved that Senate Bill No. 332 be taken from the General File and placed on the Chief Clerk's desk.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 338.

Bill read third time.

Roll call on Senate Bill No. 338:

YEAS—42.

NAYS—None.

Senate Bill No. 338 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 350.

Bill read third time.

Remarks by Assemblyman Ohrenschall.

Madam Speaker requested the privilege of the Chair for the purpose of making remarks.

Roll call on Senate Bill No. 350:

YEAS—42.

NAYS—None.

Senate Bill No. 350 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 355.

Bill read third time.

Remarks by Assemblymen Settelmeyer and Conklin.

Roll call on Senate Bill No. 355:

YEAS—26.

NAYS—Carpenter, Christensen, Cobb, Dondero Loop, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, Kirkpatrick, McArthur, Settelmeyer, Stewart, Woodbury—16.

Senate Bill No. 355 having failed to receive a two-thirds majority, Madam Speaker declared it lost.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Assembly Bill No. 563 be taken from the Chief Clerk's desk and placed at the top of the General File.

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 7:52 p.m.

ASSEMBLY IN SESSION

At 8 p.m.

Madam Speaker presiding.

Quorum present.

GENERAL FILE AND THIRD READING

Assembly Bill No. 563.

Bill read third time.

Remarks by Assemblyman Cobb.

Potential conflict of interest declared by Assemblywoman Dondero Loop.

Roll call on Assembly Bill No. 563:

YEAS—42.

NAYS—None.

Assembly Bill No. 563 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblywoman Gansert gave notice that on the next legislative day, she would move to reconsider the vote whereby Senate Bill No. 190 was this day passed.

Assemblywoman Dondero Loop gave notice that on the next legislative day, she would move to reconsider the vote whereby Senate Bill No. 355 was this day refused passage.

Assemblyman Atkinson moved that Senate Bill No. 332 be taken from the Chief Clerk's desk and placed at the top of the General File.

Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 332.

Bill read third time.

Remarks by Assemblywoman Dondero Loop.

Roll call on Senate Bill No. 332:

YEAS—42.

NAYS—None.

Senate Bill No. 332 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 408.

Bill read third time.

Remarks by Assemblyman Stewart.

Roll call on Senate Bill No. 408:

YEAS—42.

NAYS—None.

Senate Bill No. 408 having received a constitutional majority, Madam Speaker declared it passed.

Bill ordered transmitted to the Senate.

UNFINISHED BUSINESS

CONSIDERATION OF SENATE AMENDMENTS

Assembly Bill No. 26.

The following Senate amendment was read:

Amendment No. 703.

AN ACT relating to charter schools; revising the deadline for submission of an application for renewal of a written charter; revising provisions governing the exemption from annual performance audits for certain charter schools; revising certain annual reports concerning the progress made by charter schools; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill changes the deadline by which a charter school must submit an application for renewal of the written charter from 90 days to 120 days before the expiration of the charter. (NRS 386.530)

A charter school that meets certain requirements, including certain financial and performance standards, is eligible for an exemption from the requirement of an annual performance audit and must instead undergo a

performance audit every 3 years. (NRS 386.5515) **Section 2** of this bill provides that if such a charter school no longer satisfies the requirements for an exemption or if reasonable evidence of noncompliance ~~[concerning the educational progress]~~ **in achieving the educational goals and objectives of the charter school** exists, the charter school will be required to submit to an annual performance audit. After undergoing the annual performance audit, the charter school may reapply for the exemption.

Existing law requires the board of trustees of a school district and a college or university within the Nevada System of Higher Education which sponsors a charter school to submit an annual report to the State Board of Education on the evaluation of the progress made by the charter school in achieving its educational goals and objectives. (NRS 386.610) **Section 3** of this bill requires an annual report to be made by the Department of Education for each charter school sponsored by the State Board.

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

Section 1. 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]~~ ***120*** days before the expiration of the charter. The application must include the information prescribed by the regulations of the Department. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. 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. The sponsor shall conduct an intensive review and evaluation of the charter school in accordance with the regulations of the Department. 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. 2. 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 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, 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 one time every 3 years. The sponsor of the charter school and the Department shall not request a performance audit of the charter school more frequently than every 3 years without ~~[showing good cause for such a request.]~~ ***reasonable evidence of noncompliance*** ~~*[concerning the educational progress]*~~ ***in achieving the educational goals and objectives of the charter school based upon the annual report submitted to the State Board pursuant to NRS 386.610. If the charter school no longer satisfies the requirements of subsection 1 or if reasonable evidence of noncompliance*** ~~*[concerning the educational progress]*~~ ***in achieving the educational goals and objectives of the charter school exists based upon the annual report, the charter school shall, upon written notice from the sponsor, submit to an annual performance audit.*** ~~*[Such]*~~ ***Notwithstanding the provisions of paragraph (b) of subsection 1, such a charter school:***

(a) May, after undergoing the annual performance audit, reapply to the sponsor to determine whether the charter school satisfies the requirements of paragraphs (a), (c), (d) and (e) of subsection 1.

(b) Is not eligible for any available money pursuant to subsection 1 until the sponsor determines that the charter school satisfies the requirements of that subsection.

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. 3. NRS 386.610 is hereby amended to read as follows:

386.610 1. On or before August 15 of each year, if the ***State Board, 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 ***Department, the*** board of trustees or the institution, as applicable, shall submit a written report to the State Board. The written report must include:

(a) An evaluation of the progress of each charter school sponsored by the ***State Board, the*** board of trustees or ***the*** institution, as applicable, in achieving its educational goals and objectives.

(b) A description of all administrative support and services provided by the ***Department, the*** school district or ***the*** 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, the sponsor may renew the written charter of the school pursuant to subsection 2 of NRS 386.530.

Sec. 4. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 26.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 56.

The following Senate amendment was read:

Amendment No. 702.

AN ACT relating to education; revising provisions governing the use of physical restraint and mechanical restraint on pupils with disabilities; revising provisions relating to reports of the use of restraints and reports of violations; providing for the reporting of the use of corporal punishment on a pupil in public school; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prescribes the requirements for the use of physical restraint or mechanical restraint on a pupil with a disability who is enrolled in a public school or a private school. (NRS 388.521-388.5315, 394.353-394.378) **Sections 1 and 7** of this bill require each school district and each private

school which provides services to pupils with disabilities to submit annual reports to the Department of Education on the use of physical restraint and mechanical restraint on pupils with disabilities during the previous school year.

Sections 3, 4, 9 and 10 of this bill provide that if physical restraint or mechanical restraint is used on a pupil with a disability three times during 1 school year, the circumstances of the restraint must be reviewed and reported. If such restraint is used five times during 1 school year, the pupil's individualized education program or the pupil's services plan, as applicable, developed pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., must be reviewed. If the restraint continues after such a review, the school district or private school, as applicable, and the pupil's parent or legal guardian ~~[must explore]~~ **shall include** additional positive behavioral approaches **in the pupil's services plan or program, as applicable,** so that the restraint does not continue. (NRS 388.5275, 388.528, 394.368, 394.369)

Existing law prescribes the requirements for the use of mechanical restraint on a pupil with a disability enrolled in a public school or private school, including a requirement that the pupil's physician issue a medical order authorizing the use of mechanical restraint before the application of the restraint or not later than 15 minutes after the application of the restraint. (NRS 388.528, 394.369) **Sections 4 and 10** of this bill eliminate the requirement of a medical order for each application of the mechanical restraint and instead require that a medical order authorizing the use of mechanical restraint be included in the pupil's individualized education program or the pupil's services plan, as applicable.

Existing law provides that corporal punishment may not be used on a pupil in any public school. (NRS 392.4633) **Section 6** of this bill provides that a person may report the use of corporal punishment on a pupil to the agency which provides child welfare services in the county in which the school district is located. If the agency finds that the report is substantiated, the agency shall forward the report to the Department, local law enforcement agency and the county district attorney for further investigation.

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of trustees of each school district shall, on or before August 1 of each year, prepare a report in the form prescribed by the Department that includes, without limitation, for each school within the school district:

(a) The number of instances in which physical restraint was used at the school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the school and per pupil

enrolled at the school without disclosing personally identifiable information about the teacher or the pupil;

(b) The number of instances in which mechanical restraint was used at the school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil; and

(c) The number of violations of NRS 388.521 to 388.5315, inclusive, by type of violation, which must indicate the number of violations per teacher employed at the school and per pupil enrolled at the school without disclosing personally identifiable information about the teacher or the pupil.

2. The board of trustees of each school district shall prescribe a form for each school within the school district to report the information set forth in subsection 1 to the school district and the time by which those reports must be submitted to the school district.

3. On or before August 15 of each year, the board of trustees of each school district shall submit to the Department the written report prepared by the board of trustees pursuant to subsection 1.

4. The Department shall compile the data received by each school district pursuant to subsection 3 and prepare a written report of the compilation, disaggregated by school district. On or before October 1 of each year, the Department shall submit the written compilation:

(a) In even-numbered years, to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) In odd-numbered years, to the Legislative Committee on Education.

5. If a particular item in a report required pursuant to this section would reveal personally identifiable information about an individual pupil or teacher, that item must not be included in the report.

Sec. 2. NRS 388.521 is hereby amended to read as follows:

388.521 As used in NRS 388.521 to 388.5315, inclusive, ***and section 1 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 388.5215 to 388.526, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 388.5275 is hereby amended to read as follows:

388.5275 1. Except as otherwise provided in subsection 2, physical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of physical restraint;

(b) The physical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself or others or causing severe property damage; and

(c) The use of force in the application of physical restraint does not exceed the force that is reasonable and necessary under the circumstances precipitating the use of physical restraint.

2. Physical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the physical restraint is used to:

(a) Assist the pupil in completing a task or response if the pupil does not resist the application of physical restraint or if his resistance is minimal in intensity and duration;

(b) Escort or carry ~~[a]~~ ***the*** pupil to safety if the pupil is in danger in his present location; or

(c) Conduct medical examinations or treatments on the pupil that are necessary.

3. If physical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district ~~[,]~~ ***or its designee,*** the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees ***or its designee*** determines that a denial of the pupil's rights has occurred, the board of trustees ~~[may]~~ ***or its designee shall*** submit a report to the Department in accordance with NRS 388.5315.

4. If a pupil with a disability has three reports of the use of physical restraint in his record pursuant subsection 3 in 1 school year, the school district shall notify the school in which the pupil is enrolled to review the circumstances of the use of the restraint on the pupil and provide a report to the school district on its findings.

5. If a pupil with a disability has five reports of the use of physical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's individualized education program must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. 1414 et seq., and the regulations adopted pursuant thereto. If physical restraint continues after the pupil's individualized education program has been reviewed, the school district and the parent or legal guardian of the pupil shall ~~*[consider]*~~ ***include in the pupil's individualized education program additional methods that are appropriate for the pupil to ensure that the restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.***

Sec. 4. NRS 388.528 is hereby amended to read as follows:

388.528 1. Except as otherwise provided in subsection 2, mechanical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of mechanical restraint;

(b) A medical order authorizing the use of mechanical restraint ~~[is obtained]~~ from the pupil's treating physician ***is included in the pupil's individualized education program*** before the application of the mechanical restraint ***;*** ~~[or not later than 15 minutes after the application of the mechanical restraint;]~~

(c) The physician who signed the order required pursuant to paragraph (b) or the attending physician examines the pupil as soon as practicable ~~[;]~~ ***after the application of the mechanical restraint;***

(d) The mechanical restraint is applied by a member of the staff of the school who is trained and qualified to apply mechanical restraint;

(e) The pupil is given the opportunity to move and exercise the parts of his body that are restrained at least 10 minutes per every 60 minutes of restraint, unless otherwise prescribed by the physician who signed the order;

(f) A member of the staff of the school lessens or discontinues the restraint every 15 minutes to determine whether the pupil will stop ~~[or control his inappropriate behavior]~~ ***injury to himself*** without the use of the restraint;

(g) The record of the pupil contains a notation that includes the time of day that the restraint was lessened or discontinued pursuant to paragraph (f), the response of the pupil and the response of the member of the staff of the school who applied the mechanical restraint;

(h) A member of the staff of the school continuously monitors the pupil during the time that mechanical restraint is used on the pupil; and

(i) The mechanical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself . ~~[or others or causing severe property damage.]~~

2. Mechanical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the mechanical restraint is used to:

(a) Treat the medical needs of the pupil;

(b) Protect a pupil who is known to be at risk of injury to himself because he lacks coordination or suffers from frequent loss of consciousness;

(c) Provide proper body alignment to a pupil; or

(d) Position a pupil who has physical disabilities in a manner prescribed in the pupil's individualized education program.

3. If mechanical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record and a confidential file maintained for the pupil not later than 1 working day after the procedure is used. A copy of the report must be provided to the board of trustees of the school district ~~[,]~~ ***or its designee,*** the pupil's individualized education program team and the parent or guardian of the pupil. If the board of trustees ***or its designee*** determines that a denial of the pupil's rights has occurred, the board of trustees ~~[may]~~ ***or its designee shall*** submit a report to the Department in accordance with NRS 388.5315.

4. If a pupil with a disability has three reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the school district shall notify the school in which the pupil is enrolled to review the circumstances of the use of the restraint on the pupil and provide a report of its findings to the school district.

5. If a pupil with a disability has five reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's

individualized education program must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. 1414 et seq., and the regulations adopted pursuant thereto. If mechanical restraint continues after the pupil's individualized education program has been reviewed, the school district and the parent or legal guardian of the pupil shall ~~*[consider]*~~ ***include in the pupil's individualized education program additional methods that are appropriate for the pupil to ensure that restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.***

Sec. 5. NRS 388.5315 is hereby amended to read as follows:

388.5315 1. A denial of rights of a pupil with a disability pursuant to NRS 388.521 to 388.5315, inclusive, ***and section 1 of this act*** must be entered in the pupil's cumulative record and a confidential file maintained for that pupil. Notice of the denial must be provided to the board of trustees of the school district ~~[.]~~ ***or its designee.***

2. If the board of trustees of a school district ***or its designee*** receives notice of a denial of rights pursuant to subsection 1, ~~[it]~~ ***the board of trustees or its designee*** shall cause a full report to be prepared which must set forth in detail the factual circumstances surrounding the denial. A copy of the report must be provided to the Department.

3. The Department:

(a) Shall receive reports made pursuant to subsection 2;

(b) May investigate apparent violations of the rights of pupils with disabilities; and

(c) May act to resolve disputes relating to apparent violations.

Sec. 6. NRS 392.4633 is hereby amended to read as follows:

392.4633 1. Corporal punishment ~~[may]~~ ***must*** not be administered upon a pupil in any public school.

2. Subsection 1 does not prohibit any teacher, principal or other licensed person from defending himself if attacked by a pupil.

3. ***A person may report the use of corporal punishment on a pupil to the agency which provides child welfare services in the county in which the school district is located. If the agency determines that the complaint is substantiated, the agency shall forward the complaint to the Department, the appropriate local law enforcement agency within the county and the district attorney's office within the county for further investigation.***

4. As used in this section ~~[, "corporal punishment"]~~ ***:***

(a) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(b) "Corporal punishment" means the intentional infliction of physical pain upon or the physical restraint of a pupil for disciplinary purposes. The term does not include the use of reasonable and necessary force:

~~[(a)]~~ ***(1)*** To quell a disturbance that threatens physical injury to any person or the destruction of property;

~~[(b)]~~ ***(2)*** To obtain possession of a weapon or other dangerous object within a pupil's control;

~~[(c)]~~ ***(3)*** For the purpose of self-defense or the defense of another person; or

~~[(d)]~~ ***(4)*** To escort a disruptive pupil who refuses to go voluntarily with the proper authorities.

Sec. 7. Chapter 394 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The administrative head of each private school that provides instruction to pupils with disabilities shall, on or before August 15 of each year, prepare a report that includes, without limitation:

(a) The number of instances in which physical restraint was used at the private school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the private school and per pupil enrolled at the private school without disclosing personally identifiable information about the teacher or the pupil;

(b) The number of instances in which mechanical restraint was used at the private school during the immediately preceding school year, which must indicate the number of instances per teacher employed at the private school and per pupil enrolled at the private school without disclosing personally identifiable information about the teacher or the pupil; and

(c) The number of violations of NRS 394.353 to 394.378, inclusive, by type of violation, which must indicate the number of violations per teacher employed at the private school and per pupil enrolled at the private school.

2. On or before August 15 of each year, the administrative head of each private school that provides instruction to pupils with disabilities shall submit to the Department the report prepared pursuant to subsection 1. The report must be in the form prescribed by the Department.

3. The Department shall compile the data submitted by each private school pursuant to subsection 2 and prepare a written report of the compilation, disaggregated by each private school. On or before October 1 of each year, the Department shall submit the written compilation:

(a) In even-numbered years, to the Director of the Legislative Counsel Bureau for transmission to the next regular session of the Legislature.

(b) In odd-numbered years, to the Legislative Committee on Education.

4. If a particular item in a report required pursuant to this section would reveal personally identifiable information about an individual pupil or teacher, that item must not be included in the report.

Sec. 8. NRS 394.353 is hereby amended to read as follows:

394.353 As used in NRS 394.353 to 394.378, inclusive, ***and section 7 of this act,*** unless the context otherwise requires, the words and terms defined in NRS 394.354 to 394.365, inclusive, have the meanings ascribed to them in those sections.

Sec. 9. NRS 394.368 is hereby amended to read as follows:

394.368 1. Except as otherwise provided in subsection 2, physical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of physical restraint;

(b) The physical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself or others or causing severe property damage; and

(c) The use of force in the application of physical restraint does not exceed the force that is reasonable and necessary under the circumstances precipitating the use of physical restraint.

2. Physical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the physical restraint is used to:

(a) Assist the pupil in completing a task or response if the pupil does not resist the application of physical restraint or if his resistance is minimal in intensity and duration;

(b) Escort or carry ~~[a]~~ ***the*** pupil to safety if the pupil is in danger in his present location; or

(c) Conduct medical examinations or treatments on the pupil that are necessary.

3. If physical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record not later than 1 working day after the procedure is used. A copy of the report must be provided to the Superintendent, the administrator of the private school, the pupil's individualized education program team, if applicable, and the parent or guardian of the pupil. If the administrator of the private school determines that a denial of the pupil's rights has occurred, the administrator shall submit a report to the Superintendent in accordance with NRS 394.378.

4. If a pupil with a disability has three reports of the use of physical restraint in his record pursuant to subsection 3 in 1 school year, the private school in which the pupil is enrolled shall review the circumstances of the restraint on the pupil and report its findings to the Superintendent.

5. If a pupil with a disability has five reports of the use of physical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's individualized education program or the pupil's services plan, as applicable, must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. 1414 et seq., and the regulations adopted pursuant thereto. If physical restraint continues after the pupil's individualized education program or services plan has been reviewed, the private school and the parent or legal guardian of the pupil shall ~~*[consider]*~~ ***include in the pupil's individualized education program or services plan, as applicable, additional methods that are appropriate for the pupil to ensure that restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.***

Sec. 10. NRS 394.369 is hereby amended to read as follows:

394.369 1. Except as otherwise provided in subsection 2, mechanical restraint may be used on a pupil with a disability only if:

(a) An emergency exists that necessitates the use of mechanical restraint;

(b) A medical order authorizing the use of mechanical restraint ~~[is obtained]~~ from the pupil's treating physician ***is included in the pupil's services plan developed pursuant to 34 C.F.R. 300.138 or the pupil's individualized education program, whichever is appropriate,*** before the application of the mechanical restraint ***;*** ~~[or not later than 15 minutes after the application of the mechanical restraint;]~~

(c) The physician who signed the order required pursuant to paragraph (b) or the attending physician examines the pupil as soon as practicable after the application of the mechanical restraint;

(d) The mechanical restraint is applied by a member of the staff of the private school who is trained and qualified to apply mechanical restraint;

(e) The pupil is given the opportunity to move and exercise the parts of his body that are restrained at least 10 minutes per every 60 minutes of restraint, unless otherwise prescribed by the physician who signed the order;

(f) A member of the staff of the private school lessens or discontinues the restraint every 15 minutes to determine whether the pupil will stop ~~[or control his inappropriate behavior]~~ ***injury to himself*** without the use of the restraint;

(g) The record of the pupil contains a notation that includes the time of day that the restraint was lessened or discontinued pursuant to paragraph (f), the response of the pupil and the response of the member of the staff of the private school who applied the mechanical restraint;

(h) A member of the staff of the private school continuously monitors the pupil during the time that mechanical restraint is used on the pupil; and

(i) The mechanical restraint is used only for the period that is necessary to contain the behavior of the pupil so that the pupil is no longer an immediate threat of causing physical injury to himself ***.*** ~~[or others or causing severe property damage.]~~

2. Mechanical restraint may be used on a pupil with a disability and the provisions of subsection 1 do not apply if the mechanical restraint is used to:

(a) Treat the medical needs of the pupil;

(b) Protect a pupil who is known to be at risk of injury to himself because he lacks coordination or suffers from frequent loss of consciousness;

(c) Provide proper body alignment to a pupil; or

(d) Position a pupil who has physical disabilities in a manner prescribed in the pupil's service plan developed pursuant to 34 C.F.R. ~~[300.455]~~ ***300.138*** or the pupil's individualized education program, whichever is appropriate.

3. If mechanical restraint is used on a pupil with a disability in an emergency, the use of the procedure must be reported in the pupil's cumulative record not later than 1 working day after the procedure is used. A copy of the report must be provided to the Superintendent, the administrator

of the private school, the pupil's individualized education program team, if applicable, and the parent or guardian of the pupil. If the administrator of the private school determines that a denial of the pupil's rights has occurred, the administrator shall submit a report to the Superintendent in accordance with NRS 394.378.

4. ***If a pupil with a disability has three reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the private school in which the pupil is enrolled shall review the circumstances of the use of the restraint on the pupil and provide a report to the Superintendent on its findings.***

5. If a pupil with a disability has five reports of the use of mechanical restraint in his record pursuant to subsection 3 in 1 school year, the pupil's individualized education program or the pupil's services plan, as applicable, must be reviewed in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. 1414 et seq., and the regulations adopted pursuant thereto. If mechanical restraint continues after the pupil's individualized education program or services plan has been reviewed, the private school and the parent or legal guardian of the pupil shall ~~*[consider]*~~ ***include in the pupil's individualized education program or services plan, as applicable, additional methods that are appropriate for the pupil to ensure that the restraint does not continue, including, without limitation, mentoring, training, a functional behavioral assessment, a positive behavior plan and positive behavioral supports.***

6. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. 1414(d)(1)(A).

Sec. 11. This act becomes effective on July 1, 2009.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 56.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assembly Bill No. 487.

The following Senate amendment was read:

Amendment No. 738.

AN ACT relating to education; requiring the development of an academic plan for pupils enrolling in their initial year at a middle school or junior high school; requiring small learning communities in certain larger middle schools and junior high schools; requiring a program of peer mentoring for pupils initially enrolling in middle school or junior high school; requiring the board of trustees of each school district to adopt a policy for pupils enrolled in middle school or junior high school to conduct a pupil-led conference on educational progress; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the board of trustees of each school district to adopt a policy for each public school in the school district in which ninth grade pupils are enrolled to develop a 4-year academic plan for each of those pupils. (NRS 388.205) **Section 2** of this bill requires the board of trustees of each school district to adopt a policy for each middle school and junior high school in the school district to develop an academic plan for each incoming middle school or junior high school pupil.

Existing law requires the board of trustees of each school district that includes at least one high school in which 1,200 pupils or more are enrolled and that includes ninth grade pupils to adopt a policy for each of those high schools to provide a program of small learning communities for the ninth grade pupils. (NRS 388.215) **Section 3** of this bill requires the board of trustees of each school district that includes at least one middle school or junior high school in which 500 pupils or more are enrolled to adopt a policy for each of those middle schools and junior high schools to provide a program of small learning communities for the incoming middle school or junior high school pupils.

Section 5 of this bill requires the board of trustees of each school district to adopt a policy for peer mentoring, which may include a component of adult mentoring, for incoming middle school and junior high school pupils designed to increase the ability of those pupils to successfully make the transition from elementary school to middle school or junior high school.

Section 6 of this bill requires the board of trustees of each school district to adopt a policy for pupils enrolled in a middle school or junior high school to conduct, if required by the board of trustees, a pupil-led conference between the pupil, his parent or legal guardian and his teacher to review the educational development of the pupil.

Section 7 of this bill provides that the policies required by sections 2, 3, 5 and 6 of this bill must be adopted by each school district on or before January 1, 2011, for implementation beginning with the 2011-2012 School Year.

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

Section 1. Chapter 388 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. The board of trustees of each school district shall adopt a policy for each middle school and junior high school in the school district to develop an academic plan for each pupil enrolled in the grade level at which the middle school or junior high school initially enrolls pupils. The academic plan must set forth:***

(a) The specific educational goals that the pupil intends to achieve before promotion to high school;

(b) An identification of the courses required for promotion to high school;

(c) An identification of all honors courses, career and technical education courses and other educational programs, courses and pathways available to the pupil which will assist in the advancement of the education of the pupil; and

(d) A description of the expectations of the teachers of pupils who are enrolled in middle school or junior high school.

2. The policy must require each pupil enrolled in his initial year at the middle school or junior high school and the pupil's parent or legal guardian to:

(a) Have sufficient opportunities to work in consultation with a school counselor to develop an academic plan for the pupil;

(b) Review the academic plan; and

(c) Review the academic plan at least once each school year until the pupil is promoted to high school in consultation with the school counselor and revise the plan as necessary.

3. If a pupil enrolls in a middle school or junior high school after the initial year of enrollment for that middle school or junior high school, an academic plan must be developed for that pupil with appropriate modifications for the grade level of the pupil.

4. An academic plan for a pupil must be used as a guide for the pupil and the pupil's parent or legal guardian to plan, monitor and manage the pupil's educational development and make determinations of the appropriate courses of study for the pupil. If the pupil does not satisfy all the educational goals set forth in the academic plan, the pupil is eligible for promotion to high school if he otherwise satisfies the requirements for promotion to high school.

Sec. 3. ***1. The board of trustees of each school district which includes at least one middle school or junior high school with an enrollment of 500 pupils or more shall adopt a policy for each of those middle schools and junior high schools to provide a program of small learning communities for pupils enrolled in the grade level at which those middle schools or junior high schools initially enroll pupils. The policy must require:***

(a) Where practicable, the designation of a separate area geographically within the middle school or junior high school where the pupils enrolled in their initial year at the middle school or junior high school attend classes;

(b) The collection and maintenance of information relating to pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, credits earned, attendance, truancy and indicators that a pupil may be at risk of dropping out of middle school or junior high school;

(c) Based upon the information collected pursuant to paragraph (b), the timely identification of any special needs of a pupil enrolled in his initial year at the middle school or junior high school, including, without limitation, any need for programs of remedial study for a particular subject area and appropriate counseling;

(d) Methods to increase the involvement of parents and legal guardians of pupils enrolled in their initial year in a middle school or junior high school in the education of their children; and

(e) The assignment of:

(1) Guidance counselors;

(2) At least one licensed school administrator or his designee; and

(3) Appropriate adult mentors,

↳ specifically for the pupils enrolled in their initial year at the middle school or junior high school.

2. The principal of each middle school or junior high school in which 500 pupils or more are enrolled shall:

(a) Carry out a program of small learning communities in accordance with the policy prescribed by the board of trustees pursuant to subsection 1; and

(b) Submit an annual report, on a date prescribed by the board of trustees, that sets forth the specific strategies, programs and methods which are used to focus on the pupils enrolled in their initial year at the middle school or junior high school, including, without limitation, the program of mentoring provided pursuant to section 5 of this act.

Sec. 4. Chapter 392 of NRS is hereby amended by adding thereto the provisions set forth as sections 5 and 6 of this act.

Sec. 5. ***1. The board of trustees of each school district shall adopt a policy for each middle school and junior high school in the school district to provide a program of peer mentoring, which may include a component of adult mentoring, for pupils enrolled in the grade level at which the middle school or junior high school initially enrolls pupils. The policy must be designed to increase the ability of those pupils to successfully make the transition from elementary school to middle school or junior high school.***

2. The principal of each middle school or junior high school shall:

(a) Carry out a program of mentoring in accordance with the policy adopted by the board of trustees pursuant to subsection 1; and

(b) Submit an annual report to the board of trustees on:

(1) The specific activities of the program of mentoring; and

(2) The effectiveness of the program of mentoring in increasing the ability of pupils to successfully make the transition to middle school or junior high school.

3. This section does not prohibit a middle school or junior high school from continuing any other similar program of mentoring that the middle school or junior high school currently provides in a manner that is consistent with the policy prescribed by the board of trustees.

Sec. 6. ***1. The board of trustees of each school district shall adopt a policy which allows the board of trustees to require a pupil enrolled in a middle school or junior high school in the school district to conduct a pupil-led conference between the pupil, his parent or legal guardian and his teacher to review the educational development of the pupil at least once***

during the enrollment of the pupil in the middle school or junior high school. The policy must include, without limitation:

(a) Guidelines for preparing the pupil to conduct the conference, including, without limitation, the appropriate structure of a conference and topics of discussion for the conference; and

(b) A method for the pupil, his parent or legal guardian and the teacher to provide an evaluation of the conference.

2. If a pupil is required to conduct a pupil-led conference, the conference must be used as a guide for the pupil and the parent or legal guardian of the pupil to monitor the pupil's educational development. If the pupil does not conduct a pupil-led conference or if the parent or legal guardian of the pupil does not attend a pupil-led conference, the pupil is eligible for promotion to high school if he otherwise satisfies the requirements for promotion to high school.

Sec. 7. **1. The board of trustees of each school district shall adopt the policies required by sections 2, 3, 5 and 6 of this act not later than January 1, 2011, for implementation beginning with the 2011-2012 School Year.**

2. On or before June 1, 2010, the board of trustees of each school district shall provide a report to the Superintendent of Public Instruction on the status of the adoption of the policies required by sections 2, 3, 5 and 6 of this act, including, without limitation, a plan for implementation of those policies beginning with the 2011-2012 School Year. On or before July 1, 2010, the Superintendent of Public Instruction shall compile the reports and provide a report of the compilation to the Legislative Committee on Education.

~~[Sec. 7.]~~ ***Sec. 8.*** **1.** This ~~[act becomes]~~ **section and section 7 of this act become** effective on July 1, 2009.

2. Sections 2 to 6, inclusive, of this act become effective on July 1, 2009, for the purpose of adopting the policies required by sections 2, 3, 5 and 6 of this act and on July 1, 2011, for all other purposes.

Assemblywoman Parnell moved that the Assembly concur in the Senate amendment to Assembly Bill No. 487.

Remarks by Assemblywoman Parnell.

Motion carried by a constitutional majority.

Bill ordered to enrollment.

Assemblyman Oceguera moved that the Assembly recess until 9:15 p.m.

Motion carried.

Assembly in recess at 8:15 p.m.

ASSEMBLY IN SESSION

At 10:19 p.m.
Madam Speaker presiding.
Quorum present.

MOTIONS, RESOLUTIONS AND NOTICES

Assemblyman Oceguera moved that Senate Bills Nos. 160 and 218 be taken from their position on the General File and placed at the top of the General File.
Motion carried.

Assemblyman Oceguera moved that Senate Bills Nos. 245 and 411 be taken from its position on the General File and placed at the bottom of the General File.
Motion carried.

GENERAL FILE AND THIRD READING

Senate Bill No. 160.
Bill read third time.
Remarks by Assemblywoman Koivisto.
Roll call on Senate Bill No. 160:
YEAS—42.
NAYS—None.
Senate Bill No. 160 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 218.
Bill read third time.
Remarks by Assemblywoman Spiegel.
Roll call on Senate Bill No. 218:
YEAS—39.
NAYS—Cobb, Gustavson, McArthur—3.
Senate Bill No. 218 having received a two-thirds majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 82.
Bill read third time.
Roll call on Senate Bill No. 82:
YEAS—42.
NAYS—None.
Senate Bill No. 82 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 265.
Bill read third time.
Roll call on Senate Bill No. 265:
YEAS—42.
NAYS—None.
Senate Bill No. 265 having received a two-thirds majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 277.
Bill read third time.
Roll call on Senate Bill No. 277:
YEAS—42.
NAYS—None.
Senate Bill No. 277 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 53.
Bill read third time.
Remarks by Assemblymen Settelmeyer and Bobzien.
Roll call on Senate Bill No. 53:
YEAS—28.
NAYS—Carpenter, Christensen, Claborn, Cobb, Gansert, Goedhart, Goicoechea, Grady, Gustavson, Hambrick, Hardy, McArthur, Settelmeyer, Woodbury—14.
Senate Bill No. 53 having received a two-thirds majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 63.
Bill read third time.
Remarks by Assemblyman Christensen.
Roll call on Senate Bill No. 63:
YEAS—42.
NAYS—None.
Senate Bill No. 63 having received a constitutional majority, Madam Speaker declared it passed.
Bill ordered transmitted to the Senate.

Senate Bill No. 313.
Bill read third time.
Roll call on Senate Bill No. 313:
YEAS—42.
NAYS—None.
Senate Bill No. 313 having received a constitutional majority, Madam Speaker declared it passed, as amended.
Bill ordered transmitted to the Senate.

Senate Bill No. 389.

Bill read third time.

Remarks by Assemblywoman Mastroluca.

Roll call on Senate Bill No. 389:

YEAS—42.

NAYS—None.

Senate Bill No. 389 having received a constitutional majority, Madam Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 230.

Bill read third time.

Roll call on Senate Bill No. 230:

YEAS—40.

NAYS—Arberry.

NOT VOTING—Carpenter.

Senate Bill No. 230 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 Senate Bills Nos. 73, 245, 363, and 411 be taken from the General File and placed on the General File for the next legislative day.

Motion carried.

By the Committee on Elections, Procedures, Ethics, and Constitutional Amendments:

Assembly Resolution No. 10—Expressing and explaining the public policy governing Rule No. 23 of the Standing Rules of the Assembly for the 75th Session of the Legislature.

WHEREAS, It is a well-established principle of parliamentary practice that every member of the Legislature has a duty to vote unless prohibited or excused by the rules of the House (*Mason's Manual of Legislative Procedure* §§ 521 & 522 (2000) (*Mason's Manual*); Luther S. Cushing, *Elements of the Law & Practice of Legislative Assemblies* §§ 1789-91 (1856) (*Cushing's Legislative Assemblies*)); and

WHEREAS, Rule No. 23 of the Standing Rules of the Assembly for the 75th Session of the Legislature provides that in determining whether a Legislator has a conflict of interest, the Legislator should consider whether the independence of judgment of a reasonable person in his position upon the matter in question would be materially affected by his acceptance of a gift or loan, his private economic interest or his commitment to a member of his household or his immediate family; and

WHEREAS, Rule No. 23 provides that if a Legislator knows he has a conflict of interest, the Legislator shall make a general disclosure of the conflict of interest on the record in a meeting of a committee or on the floor of the Assembly, as applicable; and

WHEREAS, Rule No. 23 provides that in determining whether to abstain from voting upon or advocating or opposing a matter concerning which a Legislator has a conflict of interest, the Legislator should consider whether the conflict impedes his independence of judgment and whether his interest is greater than the interests of an entire class of persons similarly situated; and

WHEREAS, Rule No. 23 must be interpreted and applied in light of well-established principles of parliamentary practice that have been shaped, developed and followed by national and state legislatures for hundreds of years; and

WHEREAS, Rule No. 100 of the Standing Rules of the Assembly for the 75th Session of the Legislature provides that sources of parliamentary authority in the Assembly include *Mason's Manual of Legislative Procedure*; and

WHEREAS, Section 522 of *Mason's Manual* provides that "[t]he right of members to represent their constituencies is of such major importance that members should be barred from voting on matters of direct personal interest only in clear cases and when the matter is particularly personal"; and

WHEREAS, Section 1791 of *Cushing's Legislative Assemblies* provides that "[i]nterest in a question pending in the house, is good cause for disallowing a vote; but such an interest must be a direct pecuniary interest, belonging to a separate description of individuals, and not such as also belongs to all the citizens, arising out of any measure of state policy"; and

WHEREAS, Section 1791 of *Cushing's Legislative Assemblies* further provides that disqualification to vote generally "applies only to private bills, or bills relating to individuals, such as estate bills, inclosure bills, canals, joint-stock companies, etc., wherein only the individual profit or loss is concerned . . . but does not apply to questions of interest arising out of public measures, such as tax bills, colonial regulations, domestic trades, and the like"; now, therefore, be it

RESOLVED BY THE ASSEMBLY OF THE STATE OF NEVADA, That the fundamental purpose of representative government in this State is to elect citizen Legislators who will advocate and vote on behalf of their constituents so that those constituents are fully represented in the people's branch of government and their voices are effectively heard regarding the most critical legislative measures that affect both the general welfare of this State and their everyday lives; and be it further

RESOLVED, That there are legislative measures of immense statewide importance, such as bills raising revenue and bills approving the budget of the State Government, which globally impact all citizens of this State because such measures set the fiscal, economic and social priorities of this State and thereby influence and affect every aspect of our society; and be it further

RESOLVED, That the public policy of this State favors the right of citizen Legislators to perform the duties for which they were elected and to vote or otherwise act upon a matter, provided they have properly disclosed any conflicts of interest; and be it further

RESOLVED, That because abstention by a Legislator disrupts the normal course of representative government and deprives the public and the Legislator's constituents of a voice in the most important governmental affairs, Rule No. 23 is intended to require abstention only in clear cases and when the matter is particularly personal; and be it further

RESOLVED, That Rule No. 23 does not require any member of the Assembly to abstain from voting upon or advocating or opposing legislative measures of immense statewide importance which globally impact all citizens of this State because, in such cases, the very nature of such legislative measures presumptively makes the interests of every member of the Assembly no greater than the interests of every other citizen of this State, and therefore, the independence of judgment of members is not impeded by those interests and they are not required to abstain; and be it further

RESOLVED, That during the 75th Session of the Legislature, the legislative measures of immense statewide importance which globally impact all citizens of this State include the General Appropriations Act, the Authorized Expenditures Act, the Unclassified Pay Act, the State Distributive School Account Act and any legislative measures that increase various taxes and revenue sources necessary to fund the State Budget, such as Senate Bill No. 429; and be it further

RESOLVED, That this resolution shall be entered upon the Journal of the Assembly.

Assemblyman Oceguera moved the adoption of the resolution.

Remarks by Assemblymen Oceguera, Goedhart, and Madam Speaker.

Assemblyman Oceguera requested that the following remarks be entered in the Journal.

ASSEMBLYMAN OCEGUERA:

Thank you, Madam Speaker. Nevada has a citizen's Legislature. It is a long and proud tradition in our state. That means that those of us who serve in the Legislature have jobs and other interests in our everyday lives. I guess taken to their extremes, any of these aspects of our private lives could be construed as a conflict. Certainly, any time a legislator's commitment materially affects independent judgment, he or she should abstain. And we have all had instances where we felt we needed to abstain. But we also have a constitutional obligation to vote and represent our constituents, because abstention has the effect of depriving the public of its voice on important governmental matters. There is no more important matter than the one we are considering now and in the next several days. This resolution makes it clear that the policy of Rule No. 23 is to require abstention only in clear and specific cases, not when the matter is of immense statewide importance and impacts all Nevada citizens. I urge your support, Madam Speaker.

ASSEMBLYMAN GOEDHART:

Thank you, Madam Speaker. I have a question in regards to this resolution. For those who say this resolution does not materially change Rule No. 23, why do we need to pass it now, after having this bill dropped on us less than half an hour ago? I see this bill as advocating in favor of an individual being allowed to violate current ethical standards which prohibit voting on an issue if they are materially affected by a piece of legislation. That being the case, I cannot support this attempt to weaken our ethics laws and violate the confidence of the people of Nevada. I believe we should have a roll call vote so that Nevada's citizens know how their representatives voted on this issue of public trust. Thank you.

Madam Speaker requested the privilege of the Chair for the purpose of making the following remarks:

Whenever you are considering bills and situations of this unprecedented magnitude, it is very stressful. The halls today have been filled with accusations about peoples' good character—people who many times I do not agree with, but I defend their right to be who they are and say what they believe.

I have heard a lot of things, everything from, "Hey, if you are a public servant, you cannot vote on this because this might affect you," to "Hey, this person served on your board, you cannot vote on this," to "Hey, you work in a drug court. The amount of medications in the budget may affect how many people you see."

I see the reverse happening. I see people trying to knock people out from voting, without cause. Serving in the Legislature at times can be difficult. We are away from our homes and we are away from our families. But when you start calling peoples' character and integrity into question, as has been done today, that is where I draw the line, even when I do not agree with people. And that is what I think has been done all day today.

Legal was besieged with questions from legislators. It became like a telephone tree as these rumors started. "Hey, what about this person? They may have a conflict." "I heard this person might have a conflict." I think it was beginning to be designed to break this process down. In the end, I think I have a pretty good accurate guess of where this session is going to end ideologically. And that is fine. Everyone has a right to vote how they want. But to deprive people of their right to vote because of the creation of more and more conflicts? Our Legal Division finally said that they thought we would be down to a handful of folks if everyone was so afraid of an ethics complaint that they were then afraid to vote for their constituents and to represent them on the most important matter facing the state. I appreciate the concern with the lateness, but that is why I am supporting it. And I appreciate your comments.

Resolution adopted.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the Speaker and Chief Clerk signed Assembly Concurrent Resolution No. 33; Senate Bills Nos. 6, 9, 62, 72, 125, 127, 151, 185, 193, 219, 229, 238, 244, 247, 254, 283, 287, 288, 298, 302, 319, 325.

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 Patrick McBurnett and Gary MacDonald.

On request of Assemblywoman Gansert, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Roy Gomm Elementary School: Christopher Cooke, Rafael Devia, Dominic Driscoll, Morgan Eisele, Gasrelle Etem, Michael Heydon, Jonathan Hickox-Young, Leanne Kent, Madeline Kreutzian, Sheridan Manfredi, Matthew McKean, Lukas McKenzie, Jacquelyn Nader, Max O'Connor, Brian Peck, Haley Ries, Sarah Scheiber, Logan Smith, Matthew Smith, Emly Sutton, Courtney Van Havel, Tasnia Alam, Brianna Beesley, Emerson Casey, Rebecca Coleman, Ashlee Dreher, Rose Fabian, Darius Fiore, Gillian Geis, Maria Ingersoll, Hunter Lockwood, Emily Sutton, Courtney Van havel, Tasnia Alam, Brianna Beesley, Emerson Casey, Rebecca Coleman, Ashlee Dreher, Rose Fabian, Darius Fiore, Gillian Geis, Maria Ingersoll, Hunter Lockwood, Emily Low, Ryan Mellison, Tyler Nordman, Sung Park, Victoria Patriana, Christopher Ristine, lauren Robbers, Sonya Savoy, Gino Zamboni, Paul Astles, Madison Berry, Ryan Boucher, Harley Brackney, Nicole Flangas, Max Hall, Jacob Hoberg, Kaelynn Jensen, Emma Keenan, Roger Koci, Frank Lee, Trevor Livingston, Mallory McGwire, Jack Pfau, Ashley Pikero, Ian Rinehart, Mary Ristine, Elsa Ross, Jessica Rosser, Alexandra Scott, Sarah Sutton, and Jacklyn Wolfe.

On request of Assemblyman Hambrick, the privilege of the floor of the Assembly Chamber for this day was extended to John Boland and Pat Boland.

On request of Assemblyman Hardy, the privilege of the floor of the Assembly Chamber for this day was extended to the following students and chaperones from Martha P. King Elementary School: Alexander Brenner, Richard Brenner, James Brown, Matthew Brown, Julia Davidson, Karson Farrell, Korie Farrell, Bryan Foster, Keane Foster, Mandy Gebhart, Mariano Granados, Jacob Hubel, Ronald Hubel, Aaron Kehoe, Riley Marlow, Edward Rassuchine, Kym Rassuchine, Abigail Sauerbrei, Preston VanDiest, Taylor Weaver, Terry Willis, Ronald Anderson, Autumn Clayton, Tom Clayton, Cambria Dillon, Devin Fox, Gretchen Fox, Jonathan Kinney, Cindy Kinney, Timothy Leir, Braiden Lutrick, Paige Malkow, Michael Martinelli, Anastasia Matuska, Paul Matuska, Jesse Miller, Victoria Mulheron, Edward Mulheron,

Joseph Niesl, Donna Penuel, Charles Singer, Kyra Yamamoto, Robin Coppola, Lee Esplin, and Mike Pacini.

Assemblyman Oceguera moved that the Assembly adjourn until Thursday, May 21, 2009, at 10 a.m.

Motion carried.

Assembly adjourned at 10:46 p.m.

Approved: BARBARA E. BUCKLEY
Speaker of the Assembly

Attest: SUSAN FURLONG REIL
Chief Clerk of the Assembly