THE SIXTY-SIXTH DAY

CARSON CITY (Wednesday), April 8, 2009

Senate called to order at 11:33 a.m.

President Krolicki presiding.

Roll called.

All present.

Prayer by the Chaplain, Reverend Bill McCord.

O Lord, our God, whose glory is in the entire world, I most heartily call upon You to bless Your servants gathered here. Grant them wisdom and strength to know and do Your will. Fill them with the love of truth and righteousness. So rule in their hearts and prosper their works that law, order and justice may prevail for all whom they have been called to serve, through Jesus Christ our Lord.

AMEN.

Pledge of Allegiance to the Flag.

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

Motion carried.

REPORTS OF COMMITTEES

Mr. President:

Your Committee on Commerce and Labor, to which were referred Senate Bills Nos. 17, 26, 40, 58, 127, 168, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

MAGGIE CARLTON, *Chair*

Mr. President:

Your Committee on Government Affairs, to which were referred Senate Bills Nos. 11, 31, 173, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

JOHN J. LEE, *Chair*

Mr. President:

Your Committee on Health and Education, to which was referred Senate Bill No. 391, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Health and Education, to which were referred Senate Bills Nos. 20, 21, 24, 209, 298, 304, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

VALERIE WIENER, *Chair*

Mr. President:

Your Committee on Judiciary, to which was referred Senate Bill No. 348, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Judiciary, to which were referred Senate Bills Nos. 121, 130, 314, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

TERRY CARE, *Chair*

Mr. President:

Your Committee on Legislative Operations and Elections, to which was referred Senate Bill No. 156, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Legislative Operations and Elections, to which was referred Senate Joint Resolution No. 4 of the 74th Session, has had the same under consideration, and begs leave to report the same back with the recommendation: Without recommendation.

JOYCE WOODHOUSE, *Chair*

Mr. President:

Your Committee on Natural Resources, to which were referred Senate Bill No. 219; Senate Joint Resolutions Nos. 2, 7, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

Also, your Committee on Natural Resources, to which was referred Senate Concurrent Resolution No. 2, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and be adopted as amended.

DAVID R. PARKS, *Chair*

Mr. President:

Your Committee on Taxation, to which was referred Senate Bill No. 61, has had the same under consideration, and begs leave to report the same back with the recommendation: Do pass.

Also, your Committee on Taxation, to which was referred Senate Bill No. 218, has had the same under consideration, and begs leave to report the same back with the recommendation: Amend, and do pass as amended.

BOB COFFIN, *Chair*

MESSAGES FROM THE ASSEMBLY

ASSEMBLY CHAMBER, Carson City, April 6, 2009

To the Honorable the Senate:

I have the honor to inform your honorable body that the Assembly on this day passed Assembly Bill No. 169.

Also, I have the honor to inform your honorable body that the Assembly on this day passed, as amended, Assembly Bills Nos. 16, 21, 75, 93, 96, 100, 137, 164, 180.

Also, I have the honor to inform your honorable body that the Assembly on this day adopted Senate Concurrent Resolution No. 23.

DIANE M. KEETCH
Assistant Chief Clerk of the Assembly

WAIVERS AND EXEMPTIONS

NOTICE OF EXEMPTION

April 7, 2009

The Fiscal Analysis Division, pursuant to Joint Standing Rule 14.6, has determined the eligibility for exemption of: Senate Bill No. 319.

GARY GHIGGERI
Fiscal Analysis Division

MOTIONS, RESOLUTIONS AND NOTICES

Senator Horsford moved that for the remainder of the Legislative Session, the Secretary of the Senate dispense with reading the histories and titles of all bills and resolutions.

Motion carried.

Senator Lee moved that Senate Bill No. 66 be taken from the General File and placed on the Secretary's desk.

Motion carried.

Senator Woodhouse moved that Senate Bill No. 162 be taken from the Secretary's desk and placed on the top of the General File.

Motion carried.

Senator Care moved that Senate Bills Nos. 70, 122, 256, 375 be taken from the General File and rereferred to the Committee on Finance.

Motion carried.

Senator Schneider moved that Senate Bill No. 243 be taken from the Second Reading File and placed on the Second Reading File for the next legislative day.

Motion carried.

Senator Care moved that Assembly Bill No. 469 be placed on the top of the General File.

Motion carried.

INTRODUCTION, FIRST READING AND REFERENCE

Assembly Bill No. 16.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 21.

Senator Care moved that the bill be referred to the Committee on Energy, Infrastructure and Transportation.

Motion carried.

Assembly Bill No. 75.

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

Motion carried.

Assembly Bill No. 93.

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

Motion carried.

Assembly Bill No. 96.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 100.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 137.

Senator Care moved that the bill be referred to the Committee on Health and Education.

Motion carried.

Assembly Bill No. 164.

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

Motion carried.

Assembly Bill No. 169.

Senator Care moved that the bill be referred to the Committee on Energy, Infrastructure and Transportation.

Motion carried.

Assembly Bill No. 180.

Senator Care moved that the bill be referred to the Committee on Energy, Infrastructure and Transportation.

Motion carried.

SECOND READING AND AMENDMENT

Senate Bill No. 7.

Bill read second time.

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

Amendment No. 134.

"SUMMARY—Makes various changes to the Advisory Council on the State Program for Fitness and Wellness. (BDR 40-23)"

"AN ACT relating to public health; making various changes relating to the Advisory Council on the State Program for Fitness and Wellness; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides that, within the limits of available money, the Health Division of the Department of Health and Human Services shall establish the Advisory Council on the State Program for Fitness and Wellness to increase public knowledge, to raise public awareness and to educate the residents of this State on matters relating to physical fitness and wellness. (NRS 439.517, 439.518) Section 1 of this bill increases the number of voting members of the Advisory Council from 7 to 11 members and authorizes the appointment of additional nonvoting members.

Existing law requires the State Health Officer or his designee to serve as the Chairman of the Advisory Council. Section 2 of this bill provides instead that a majority of the voting members of the Advisory Council must select a Chairman and a Vice Chairman of the Advisory Council. Section 2 further authorizes a majority of the voting members of the Advisory Council to appoint committees and subcommittees to study issues relating to physical

fitness and wellness and provides for the removal of nonlegislative members. (NRS 439.519)

Existing law authorizes the Health Division to contract with public or private entities to provide services necessary to carry out the State Program for Fitness and Wellness. Section 3 of this bill authorizes the Health Division to award grants for the same purpose.

Existing law requires the Health Division, on or before January 1 of each year, to prepare and submit a report to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature summarizing the findings and recommendations of the Advisory Council and the status of the State Program for Fitness and Wellness. (NRS 439.524) Section 4 *of this bill requires the Health Division to prepare and submit the report on or before February 1 of each year.*

Section 5 of this bill revises an appropriation made by the 2007 Legislature to clarify that the money must be accounted for in the nonreverting account created by statute to pay the operational costs of the Advisory Council.

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

Section 1. NRS 439.518 is hereby amended to read as follows:

439.518 1. Within the limits of available money, the Health Division shall establish the Advisory Council on the State Program for Fitness and Wellness to advise and make recommendations to the Health Division concerning the Program.

2. The Administrator shall appoint to the Advisory Council the following ~~[seven]~~ *nine voting* members:

(a) The State Health Officer or his designee;

(b) The Superintendent of Public Instruction or his designee;

(c) One representative of the health insurance industry;

(d) One provider of health care;

(e) One representative of the Nevada Association for Health, Physical Education, Recreation and Dance or its successor organization;

(f) One representative of an organization committed to the prevention of chronic diseases; ~~[and]~~

(g) One registered dietician ~~[.]~~ *;*

(h) One representative who is a member of a racial or ethnic minority group ~~[;]~~ appointed from a list of persons submitted to the Administrator by the Advisory Committee of the Office of Minority Health of the Department; and

(i) One representative of private employers in this State who has experience in matters relating to employment and human resources.

3. The Legislative Commission shall appoint to the Advisory Council the following two voting members:

(a) One member of the Senate; and

(b) One member of the Assembly.

4. A majority of the voting members of the Advisory Council may appoint nonvoting members to the Advisory Council.

Sec. 2. NRS 439.519 is hereby amended to read as follows:

439.519 1. The members of the Advisory Council serve terms of 2 years. A member may be reappointed.

2. ~~[The State Health Officer or his designee shall serve as the]~~ *A majority of the voting members of the Advisory Council shall select a* Chairman *and a Vice Chairman* of the Advisory Council.

3. *A majority of the voting members of the Advisory Council may:*

(a) Appoint committees or subcommittees to study issues relating to physical fitness and wellness.

(b) Remove a nonlegislative member of the Advisory Council for failing to carry out the business of, or serve the best interests of, the Advisory Council.

4. The Health Division shall, within the limits of available money, provide the necessary professional staff and a secretary for the Advisory Council.

~~[4.]~~ *5.* A majority of the *voting* members of the Advisory Council constitutes a quorum to transact all business, and a majority of those *voting members* present, physically or via telecommunications, must concur in any decision.

~~[5.]~~ *6.* The Advisory Council shall, within the limits of available money, meet at the call of the Administrator, the Chairman or a majority of the *voting* members of the Advisory Council quarterly or as is necessary.

~~[6.]~~ *7.* The members of the Advisory Council serve without compensation, except that each member is entitled, while engaged in the business of the Advisory Council and within the limits of available money, to the per diem allowance and travel expenses provided for state officers and employees generally.

Sec. 3. NRS 439.523 is hereby amended to read as follows:

439.523 The Health Division may, within the limits of available money, enter into contracts with *or award grants to* public or private entities that have the appropriate expertise to provide any services necessary to carry out or assist the Health Division in carrying out the provisions of NRS 439.514 to 439.525, inclusive.

Sec. 4. NRS 439.524 is hereby amended to read as follows:

439.524 The Health Division shall, on or before ~~[January]~~ *February* 1 of each year, prepare and submit a report to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Legislature summarizing:

1. The findings and recommendations of the Advisory Council; and

2. The status of the Program.

~~[Sec. 4.]~~ *Sec. 5.* Section 35 of chapter 345, Statutes of Nevada 2007, at page 1617, is hereby amended to read as follows:

Sec. 35. ~~[1.]~~ There is hereby appropriated from the State General Fund to the account for the Advisory Council on the State

Program for Fitness and Wellness, created pursuant to ~~[Senate Bill No. 197 of the 73rd Session of the Nevada Legislature, the sum of $100,000 for the operational costs of the Council.~~

~~2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.]~~ *NRS 439.525, the sum of $100,000 for the operational costs of the Council.*

~~[Sec. 5.]~~ *Sec. 6.* Notwithstanding the provisions of subsection 1 of NRS 439.519, the members of the Advisory Council on the State Program for Fitness and Wellness appointed pursuant to:

1. The provisions of paragraphs (h) and (i) of subsection 2 of NRS 439.518, as amended by section 1 of this act, must be appointed to initial terms of 4 years.

2. The provisions of paragraphs (a) and (b) of subsection 3 of NRS 439.518, as amended by section 1 of this act, must be appointed to initial terms of 2 years.

~~[Sec. 6.]~~ *Sec. 7.* This act becomes effective upon passage and approval.

Senator Wiener moved the adoption of the amendment.

Remarks by Senator Wiener.

Senator Wiener requested that her remarks be entered in the Journal.

Amendment No. 134 adds the following provision to Senate Bill No. 7. The amendment requires the Administrator to choose from recommendations provided by the Advisory Board of the Office of Minority Health when appointing the representative who is a member of a racial or ethnic minority group. It revises the date from January 1 to February 1.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 14.

Bill read second time.

The following amendment was proposed by the Committee on Finance:

Amendment No. 205.

"SUMMARY— ~~[Increases the portion of the fee for]~~ *Makes various changes to fees relating to* a marriage license that ~~[funds]~~ *fund* the Account for Aid for Victims of Domestic Violence. (BDR 11-117)"

"AN ACT relating to marriage; increasing the portion of the fee for a marriage license that funds the Account for Aid for Victims of Domestic Violence; *providing for the collection of additional fees relating to marriage*

licenses to fund the Account for Aid for Victims of Domestic Violence; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires a county clerk to collect certain fees when issuing a marriage license. (NRS 122.060) A portion of the fee a county clerk collects when issuing a marriage license is dedicated to the Account for Aid for Victims of Domestic Violence in the State General Fund. Section 1 of this bill increases the portion of the fee for a marriage license that funds the Account for Aid for Victims of Domestic Violence from $20 to $25.

Section 2 of this bill provides that the county clerk shall collect, if authorized by the board of county commissioners, an additional fee of $5 for the Account for Aid for Victims of Domestic Violence in the State General Fund when certifying a copy of a certificate of marriage or when certifying an abstract of a certificate of marriage. (NRS 246.180) Section 3 of this bill requires the county recorder to charge the same fee as required in section 2. (NRS 247.305)

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

Section 1. NRS 122.060 is hereby amended to read as follows:

122.060 1. The county clerk is entitled to receive as his fee for issuing ~~[the]~~ *a marriage* license the sum of $21.

2. The county clerk shall also at the time of issuing the *marriage* license:

(a) Collect the sum of $10 and:

(1) If the board of county commissioners has adopted an ordinance pursuant to NRS 246.100, deposit the sum into the county general fund pursuant to NRS 246.180 for filing the originally signed copy of the certificate of marriage described in NRS 122.120.

(2) If the board of county commissioners has not adopted an ordinance pursuant to NRS 246.100, pay it over to the county recorder as his fee for recording the originally signed copy of the certificate of marriage described in NRS 122.120.

(b) Collect the additional fee described in subsection 2 of NRS 246.180, if the board of county commissioners has adopted an ordinance authorizing the collection of such fee, and deposit the fee pursuant to NRS 246.190.

3. The county clerk shall also at the time of issuing the *marriage* license collect the additional sum of $4 for the State of Nevada. The fees collected for the State must be paid over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be placed to the credit of the State General Fund. The county treasurer shall remit quarterly all such fees deposited by the county clerk to the State Controller for credit to the State General Fund.

4. The county clerk shall also at the time of issuing the *marriage* license collect the additional sum of ~~[$20]~~ *$25* for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county clerk on or

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

Sec. 2. *NRS 246.180 is hereby amended to read as follows:*

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

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

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

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

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

(e) For a certified copy of a certificate of marriage or for a certified abstract of a certificate of marriage, the additional sum of $5 for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county clerk on or before the fifth day of each month for the preceding calendar month, and must be credited to that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the clerk to the State Controller for credit to that Account.

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

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

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

5. For purposes of this section, "State of Nevada," "county," "city" and "town" include any department or agency thereof and any officer thereof in his official capacity.

Sec. 3. *NRS 247.305 is hereby amended to read as follows:*

247.305 1. If another statute specifies the fee to be charged for a service, county recorders shall charge and collect only the fee specified. Otherwise, unless prohibited by NRS 375.060, county recorders shall charge and collect the following fees:

(a) For recording any document, for the first page , $10 .

(b) For each additional page , $1 .

(c) For recording each portion of a document which must be separately indexed, after the first indexing *, $*3 .

(d) For copying any record, for each page *, $*1 .

(e) For certifying, including certificate and seal *, $*4 .

(f) For a certified copy of a certificate of marriage *, $*10 .

(g) For a certified abstract of a certificate of marriage *, $*10 .

(h) For a certified copy of a certificate of marriage or for a certified abstract of a certificate of marriage, the additional sum of $5 for the Account for Aid for Victims of Domestic Violence in the State General Fund. The fees collected for this purpose must be paid over to the county treasurer by the county recorder on or before the fifth day of each month for the preceding calendar month, and must be credited to that Account. The county treasurer shall, on or before the 15th day of each month, remit those fees deposited by the recorder to the State Controller for credit to that Account.

2. Except as otherwise provided in this subsection and NRS 375.060, a county recorder may charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee not to exceed $3 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder may not charge the additional fee authorized in this subsection for recording the originally signed copy of a certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him pursuant to this subsection to the county treasurer for credit to the account established pursuant to NRS 247.306.

3. Except as otherwise provided in this subsection and NRS 375.060, a county recorder shall charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee of $1 for recording a document, instrument, paper, notice, deed, conveyance, map, chart, survey or any other writing. A county recorder shall not charge the additional fee authorized in this subsection for recording the originally signed copy of a certificate of marriage described in NRS 122.120. On or before the fifth day of each month, the county recorder shall pay the amount of fees collected by him pursuant to this subsection to the county treasurer. On or before the 15th day of each month, the county treasurer shall remit the money received by him pursuant to this subsection to the State Treasurer for credit to the Account to Assist Persons Formerly in Foster Care established pursuant to NRS 432.017.

4. Except as otherwise provided in this subsection, subsection 5 or by specific statute, a county recorder may charge and collect, in addition to any fee that a county recorder is otherwise authorized to charge and collect, an additional fee not to exceed $25 for recording any document that does not meet the standards set forth in subsection 3 of NRS 247.110. A county recorder shall not charge the additional fee authorized by this subsection for recording a document that is exempt from the provisions of subsection 3 of NRS 247.110.

5. Except as otherwise provided in subsection 6, a county recorder shall not charge or collect any fees for any of the services specified in this section when rendered by him to:

(a) The county in which his office is located.

(b) The State of Nevada or any city or town within the county in which his office is located, if the document being recorded:

(1) Conveys to the State, or to that city or town, an interest in land;

(2) Is a mortgage or deed of trust upon lands within the county which names the State or that city or town as beneficiary;

(3) Imposes a lien in favor of the State or that city or town; or

(4) Is a notice of the pendency of an action by the State or that city or town.

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

7. If the amount of money collected by a county recorder for a fee pursuant to this section:

(a) Exceeds by $5 or less the amount required by law to be paid, the county recorder shall deposit the excess payment with the county treasurer for credit to the county general fund.

(b) Exceeds by more than $5 the amount required by law to be paid, the county recorder shall refund the entire amount of the excess payment.

8. Except as otherwise provided in subsection 2, 3 or 7 or by an ordinance adopted pursuant to the provisions of NRS 244.207, county recorders shall, on or before the fifth working day of each month, account for and pay to the county treasurer all such fees collected during the preceding month.

9. For the purposes of this section, "State of Nevada," "county," "city" and "town" include any department or agency thereof and any officer thereof in his official capacity.

~~[Sec. 2.]~~ *Sec. 4.* This act becomes effective upon passage and approval.

Senator Mathews moved the adoption of the amendment.

Remarks by Senator Mathews.

Senator Mathews requested that her remarks be entered in the Journal.

This bill deals with the portion of the fees from marriage licenses to be increased to fund domestic violence. The amendment increases the cost of a marriage license by $5 to $25. If you want a copy of the license, the fee is increased by $5 for each additional copy.

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

Motion carried.

Senate in recess at 11:49 a.m.

SENATE IN SESSION

At 11:51 a.m.
President Krolicki presiding.
Quorum present.

Amendment adopted.
Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 62.
Bill read second time.
The following amendment was proposed by the Committee on Health and Education:
Amendment No. 133.
"SUMMARY—Revises provisions governing special education. (BDR 34-426)"
"AN ACT relating to education; revising provisions governing the use of special education program units from the State Distributive School Account; authorizing the provision of early intervening services for certain pupils *in certain counties*; and providing other matters properly relating thereto."
Legislative Counsel's Digest:
The Individuals with Disabilities Education Act provides federal funds to ensure that each pupil with a disability receives a free appropriate public education. In 2004, Congress revised the federal Act to authorize local education agencies (school districts) to use not more than 15 percent of the federal funds to provide early intervening services for pupils who do not require special education services but who need additional academic or behavioral support to succeed in the general curriculum. (20 U.S.C. §§ 1400 et seq.)
Existing law requires the boards of trustees of school districts to provide special education and services to pupils with disabilities in accordance with the federal Act. (NRS 388.440-388.520) Section 5 of this bill authorizes the board of trustees of a school district *in a county whose population is less than 400,000 (currently counties other than Clark County)* to offer early intervening services. (NRS 388.450)
Existing law provides for the establishment of a basic support guarantee for special education program units for purposes of allocating money from the State Distributive School Account. (NRS 387.122, 387.1221) Section 3 of this bill provides that a school district ~~[,]~~ *in a county whose population is less than 400,000,* charter school or university school for profoundly gifted pupils that receives an allocation for a special education program unit ~~[shall not]~~ *may* use *not* more than 15 percent of the allocation to provide early intervening services. (NRS 387.1221)
Section 6 of this bill authorizes the State Board of Education to prescribe the minimum standards for the provision of early intervening services. (NRS 388.520)

The remaining sections of this bill revise the applicable provisions governing school districts, charter schools and university schools for profoundly gifted pupils to include early intervening services.

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

Section 1. NRS 386.585 is hereby amended to read as follows:

386.585 1. A governing body of a charter school shall adopt:

(a) Written rules of behavior required of and prohibited for pupils attending the charter school; and

(b) Appropriate punishments for violations of the rules.

2. Except as otherwise provided in subsection 3, if suspension or expulsion of a pupil is used as a punishment for a violation of the rules, the charter school shall ensure that, before the suspension or expulsion, the pupil has been given notice of the charges against him, an explanation of the evidence and an opportunity for a hearing. The provisions of chapter 241 of NRS do not apply to any hearing conducted pursuant to this section. Such a hearing must be closed to the public.

3. A pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process or who is selling or distributing any controlled substance or who is found to be in possession of a dangerous weapon as provided in NRS 392.466 may be removed from the charter school immediately upon being given an explanation of the reasons for his removal and pending proceedings, which must be conducted as soon as practicable after removal, for his suspension or expulsion.

4. A pupil who is enrolled in a charter school and participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented ~~[,]~~ *or who receives early intervening services,* may, in accordance with the procedural policy adopted by the governing body of the charter school for such matters, be:

(a) Suspended from the charter school pursuant to this section for not more than 10 days.

(b) Suspended from the charter school for more than 10 days or permanently expelled from school pursuant to this section only after the governing body has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act , ~~[(]~~ 20 U.S.C. §§ 1400 et seq. ~~[).]~~

5. A copy of the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments must be:

(a) Distributed to each pupil at the beginning of the school year and to each new pupil who enters school during the year.

(b) Available for public inspection at the charter school.

6. The governing body of a charter school may adopt rules relating to the truancy of pupils who are enrolled in the charter school if the rules are at least as restrictive as the provisions governing truancy set forth in NRS 392.130 to 392.220, inclusive. If a governing body adopts rules

governing truancy, it shall include the rules in the written rules adopted by the governing body pursuant to subsection 1.

Sec. 2. NRS 387.047 is hereby amended to read as follows:

387.047 1. Except as otherwise provided in this section, each school district and charter school shall separately account for all money received for the instruction of and the provision of related services to pupils with disabilities , ~~[and]~~ gifted and talented pupils *and pupils who receive early intervening services* described by NRS 388.520.

2. The separate accounting must include:

(a) The amount of money provided to the school district or charter school for special education for basic support;

(b) Transfers of money from the general fund of the school district or charter school needed to balance the special revenue fund; ~~[and]~~

(c) The cost of:

(1) Instruction provided by licensed special education teachers and supporting staff;

(2) Related services, including, but not limited to, services provided by psychologists, therapists and health-related personnel;

(3) Transportation of the pupils with disabilities and gifted and talented pupils to and from school;

(4) The direct supervision of educational and supporting programs; and

(5) The supplies and equipment needed for providing special education ~~[.]~~ *; and*

(d) The amount of money, if any, expended by the school district or charter school for early intervening services provided pursuant to subsection 3 of NRS 388.450.

3. Money received from federal sources must be:

(a) Accounted for separately; and

(b) Excluded from the accounting required pursuant to this section.

Sec. 3. NRS 387.1221 is hereby amended to read as follows:

387.1221 1. The basic support guarantee for any special education program unit maintained and operated during a period of less than 9 school months is in the same proportion to the amount established by law for that school year as the period during which the program unit actually was maintained and operated is to 9 school months.

2. Any unused allocations for special education program units may be reallocated to other school districts, charter schools or university schools for profoundly gifted pupils by the Superintendent of Public Instruction. In such a reallocation, first priority must be given to special education programs with statewide implications, and second priority must be given to special education programs maintained and operated within counties whose allocation is less than or equal to the amount provided by law. If there are more unused allocations than necessary to cover programs of first and second priority but not enough to cover all remaining special education programs eligible for payment from reallocations, then payment for the remaining

programs must be prorated. If there are more unused allocations than necessary to cover programs of first priority but not enough to cover all programs of second priority, then payment for programs of second priority must be prorated. If unused allocations are not enough to cover all programs of first priority, then payment for programs of first priority must be prorated.

3. A school district, a charter school or a university school for profoundly gifted pupils may, after receiving the approval of the Superintendent of Public Instruction, contract with any person, state agency or legal entity to provide a special education program unit for pupils of the district pursuant to NRS 388.440 to 388.520, inclusive.

4. A school district ~~[,]~~ in a county whose population is less than 400,000, charter school or university school for profoundly gifted pupils that receives an allocation for special education program units ~~[shall not]~~ may use not more than 15 percent of its allocation to provide early intervening services.

Sec. 4. NRS 388.440 is hereby amended to read as follows:

388.440 As used in NRS 388.440 to 388.5315, inclusive:

1. "Gifted and talented pupil" means a person under the age of 18 years who demonstrates such outstanding academic skills or aptitudes that he cannot progress effectively in a regular school program and therefore needs special instruction or special services.

2. *"Pupil who receives early intervening services" means a person enrolled in kindergarten or grades 1 to 12, inclusive, who is not a pupil with a disability but who needs additional academic and behavioral support to succeed in a regular school program.*

3. "Pupil with a disability" means a person under the age of 22 years who deviates either educationally, physically, socially or emotionally so markedly from normal patterns that he cannot progress effectively in a regular school program and therefore needs special instruction or special services.

Sec. 5. NRS 388.450 is hereby amended to read as follows:

388.450 1. The Legislature declares that the basic support guarantee for each special education program unit established by law for each school year establishes financial resources sufficient to ensure a reasonably equal educational opportunity to pupils with disabilities and gifted and talented pupils residing in Nevada.

2. Subject to the provisions of NRS 388.440 to 388.520, inclusive, the board of trustees of each school district shall make such special provisions as may be necessary for the education of pupils with disabilities and gifted and talented pupils.

3. *The board of trustees of a school district in a county whose population is less than 400,000 may provide early intervening services. Such services must be provided in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq., and the regulations adopted pursuant thereto.*

4. The board of trustees of a school district shall establish uniform criteria governing eligibility for instruction under the special education

programs provided for by NRS 388.440 to 388.520, inclusive. The criteria must prohibit the placement of a pupil in a program for pupils with disabilities solely because the pupil is a disciplinary problem in school. The criteria are subject to such standards as may be prescribed by the State Board.

Sec. 6. NRS 388.520 is hereby amended to read as follows:

388.520 1. The Department shall:

(a) Prescribe a form that contains the basic information necessary for the uniform development, review and revision of an individualized education program for a pupil with a disability in accordance with 20 U.S.C. § 1414(d); and

(b) Make the form available on a computer disc for use by school districts and, upon request, in any other manner deemed reasonable by the Department.

2. Except as otherwise provided in this subsection, each school district shall ensure that the form prescribed by the Department is used for the development, review and revision of an individualized education program for each pupil with a disability who receives special education in the school district. A school district may use an expanded form that contains additions to the form prescribed by the Department if the basic information contained in the expanded form complies with the form prescribed by the Department.

3. The State Board ~~[shall]~~ *:*

(a) Shall prescribe minimum standards for the special education of pupils with disabilities and gifted and talented pupils.

(b) May prescribe minimum standards for the provision of early intervening services.

4. The minimum standards prescribed by the State Board must include standards for programs of instruction or special services maintained for the purpose of serving pupils with:

(a) Hearing impairments, including, but not limited to, deafness.
(b) Visual impairments, including, but not limited to, blindness.
(c) Orthopedic impairments.
(d) Speech and language impairments.
(e) Mental retardation.
(f) Multiple impairments.
(g) Serious emotional disturbances.
(h) Other health impairments.
(i) Specific learning disabilities.
(j) Autism.
(k) Traumatic brain injuries.
(l) Developmental delays.
(m) Gifted and talented abilities.

5. No apportionment of state money may be made to any school district or charter school for the instruction of pupils with disabilities and gifted and talented pupils until the program of instruction maintained therein for such

pupils is approved by the Superintendent of Public Instruction as meeting the minimum standards prescribed by the State Board.

6. The Department shall, upon the request of the board of trustees of a school district, provide information to the board of trustees concerning the identification and evaluation of pupils with disabilities in accordance with the standards prescribed by the State Board.

7. As used in this section, "individualized education program" has the meaning ascribed to it in 20 U.S.C. § 1414(d)(1)(A).

Sec. 7. NRS 392.466 is hereby amended to read as follows:

392.466 1. Except as otherwise provided in this section, any pupil who commits a battery which results in the bodily injury of an employee of the school or who sells or distributes any controlled substance while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be suspended or expelled from that school, although he may be placed in another kind of school, for at least a period equal to one semester for that school. For a second occurrence, the pupil must be permanently expelled from that school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

2. Except as otherwise provided in this section, any pupil who is found in possession of a firearm or a dangerous weapon while on the premises of any public school, at an activity sponsored by a public school or on any school bus must, for the first occurrence, be expelled from the school for a period of not less than 1 year, although he may be placed in another kind of school for a period not to exceed the period of the expulsion. For a second occurrence, the pupil must be permanently expelled from the school and:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

➥ The superintendent of schools of a school district may, for good cause shown in a particular case in that school district, allow a modification to the expulsion requirement of this subsection if such modification is set forth in writing.

3. Except as otherwise provided in this section, if a pupil is deemed a habitual disciplinary problem pursuant to NRS 392.4655, the pupil must be suspended or expelled from the school for a period equal to at least one

semester for that school. For the period of his suspension or expulsion, the pupil must:

(a) Enroll in a private school pursuant to chapter 394 of NRS or be homeschooled; or

(b) Enroll in a program of independent study provided pursuant to NRS 389.155 for pupils who have been suspended or expelled from public school or a program of distance education provided pursuant to NRS 388.820 to 388.874, inclusive, if he qualifies for enrollment and is accepted for enrollment in accordance with the requirements of the applicable program.

4. This section does not prohibit a pupil from having in his possession a knife or firearm with the approval of the principal of the school. A principal may grant such approval only in accordance with the policies or regulations adopted by the board of trustees of the school district.

5. Any pupil in grades 1 to 6, inclusive, except a pupil who has been found to have possessed a firearm in violation of subsection 2, may be suspended from school or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and approved this action in accordance with the procedural policy adopted by the board for such issues.

6. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented ~~[,]~~ *or who receives early intervening services*, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days. Such a suspension may be imposed pursuant to this paragraph for each occurrence of conduct proscribed by subsection 1.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

7. As used in this section:

(a) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(b) "Dangerous weapon" includes, without limitation, a blackjack, slungshot, billy, sand-club, sandbag, metal knuckles, dirk or dagger, a nunchaku, switchblade knife or trefoil, as defined in NRS 202.350, a butterfly knife or any other knife described in NRS 202.350, or any other object which is used, or threatened to be used, in such a manner and under such circumstances as to pose a threat of, or cause, bodily injury to a person.

(c) "Firearm" includes, without limitation, any pistol, revolver, shotgun, explosive substance or device, and any other item included within the definition of a "firearm" in 18 U.S.C. § 921, as that section existed on July 1, 1995.

8. The provisions of this section do not prohibit a pupil who is suspended or expelled from enrolling in a charter school that is designed exclusively for the enrollment of pupils with disciplinary problems if he is accepted for enrollment by the charter school pursuant to NRS 386.580. Upon request, the governing body of a charter school must be provided with access to the records of the pupil relating to his suspension or expulsion in accordance with applicable federal and state law before the governing body makes a decision concerning the enrollment of the pupil.

Sec. 8. NRS 392.467 is hereby amended to read as follows:

392.467 1. Except as otherwise provided in subsections 4 and 5, the board of trustees of a school district may authorize the suspension or expulsion of any pupil from any public school within the school district.

2. Except as otherwise provided in subsection 5, no pupil may be suspended or expelled until he has been given notice of the charges against him, an explanation of the evidence and an opportunity for a hearing, except that a pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process or who is selling or distributing any controlled substance or is found to be in possession of a dangerous weapon as provided in NRS 392.466 may be removed from the school immediately upon being given an explanation of the reasons for his removal ~~[,]~~ and pending proceedings, to be conducted as soon as practicable after removal, for his suspension or expulsion.

3. The provisions of chapter 241 of NRS do not apply to any hearing conducted pursuant to this section. Such hearings must be closed to the public.

4. The board of trustees of a school district shall not authorize the expulsion, suspension or removal of any pupil from the public school system solely because the pupil is declared a truant or habitual truant in accordance with NRS 392.130 or 392.140.

5. A pupil who is participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented ~~[,]~~ *or who receives early intervening services*, may, in accordance with the procedural policy adopted by the board of trustees of the school district for such matters, be:

(a) Suspended from school pursuant to this section for not more than 10 days.

(b) Suspended from school for more than 10 days or permanently expelled from school pursuant to this section only after the board of trustees of the school district has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act , ~~[(]~~ 20 U.S.C. §§ 1400 et seq. ~~[).]~~

Sec. 9. NRS 392A.105 is hereby amended to read as follows:

392A.105 1. The governing body of a university school for profoundly gifted pupils shall adopt:

(a) Written rules of behavior for pupils enrolled in the university school, including, without limitation, prohibited acts; and

(b) Appropriate punishments for violations of the rules.

2. Except as otherwise provided in subsection 3, if suspension or expulsion of a pupil is used as a punishment for a violation of the rules, the university school for profoundly gifted pupils shall ensure that, before the suspension or expulsion, the pupil has been given notice of the charges against him, an explanation of the evidence and an opportunity for a hearing. The provisions of chapter 241 of NRS do not apply to any hearing conducted pursuant to this section. Such a hearing must be closed to the public.

3. A pupil who poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process or who is selling or distributing any controlled substance or who is found to be in possession of a dangerous weapon as provided in NRS 392.466 may be removed from the university school for profoundly gifted pupils immediately upon being given an explanation of the reasons for his removal and pending proceedings, which must be conducted as soon as practicable after removal, for his suspension or expulsion.

4. A pupil who is enrolled in a university school for profoundly gifted pupils and participating in a program of special education pursuant to NRS 388.520, other than a pupil who is gifted and talented ~~[,]~~ *or who receives early intervening services*, may, in accordance with the procedural policy adopted by the governing body of the university school for such matters, be:

(a) Suspended from the university school pursuant to this section for not more than 10 days.

(b) Suspended from the university school for more than 10 days or permanently expelled from school pursuant to this section only after the governing body has reviewed the circumstances and determined that the action is in compliance with the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400 et seq.

5. A copy of the rules of behavior, prescribed punishments and procedures to be followed in imposing punishments must be:

(a) Distributed to each pupil at the beginning of the school year and to each new pupil who enters the university school for profoundly gifted pupils during the year.

(b) Available for public inspection at the university school.

6. The governing body of a university school for profoundly gifted pupils may adopt rules relating to the truancy of pupils who are enrolled in the university school if the rules are at least as restrictive as the provisions governing truancy set forth in NRS 392.130 to 392.220, inclusive. If the governing body adopts rules governing truancy, it shall include the rules in the written rules adopted by the governing body pursuant to subsection 1.

Sec. 10. This act becomes effective upon passage and approval.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Senator Woodhouse requested that her remarks be entered in the Journal.

Thank you, Mr. President. Amendment No. 133 to Senate Bill No. 62 revises the authority of offering a state-funded program of early intervening services to apply only to school districts in a county whose population is less than 400,000. This amendment would exclude Clark County School District from the provisions of the bill. It also revises language to parallel federal regulations pertaining to use of federal funds for early intervening services.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 76.

Bill read second time.

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

Amendment No. 9.

"SUMMARY—Revises provisions governing the administrative procedures for the summary suspension of licenses issued by certain state agencies. (BDR 18-263)"

"AN ACT relating to administrative procedure; revising provisions governing the summary suspension of a license by certain agencies of the Executive Department of State Government; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law governs the administrative procedures of certain agencies of the Executive Department of State Government. (NRS Ch. 233B) An agency is authorized to summarily suspend a license issued by that agency if the agency finds that the public health, safety or welfare imperatively require such emergency action. (NRS 233B.127) This bill provides that an agency's order for the summary suspension of a license may be issued by the agency ~~[, the executive head of the agency, a member]~~ *or by the Chairman* of the governing body of the agency *.* ~~[or an officer or employee of the agency acting within the scope of his authority.]~~ This bill further provides that ~~[a member]~~ *the Chairman* of a governing body of an agency who issues an order of summary suspension must not participate in any further proceedings relating to that order. Finally, this bill requires the agency to complete its proceedings against the licensee within ~~[60]~~ *45* days after the date of the order of summary suspension unless the licensee and the agency agree to a longer period.

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

Section 1. NRS 233B.127 is hereby amended to read as follows:

233B.127 1. When the grant, denial or renewal of a license is required to be preceded by notice and opportunity for hearing, the provisions of this chapter concerning contested cases apply.

2. When a licensee has made timely and sufficient application for the renewal of a license or for a new license with reference to any activity of a

continuing nature, the existing license does not expire until the application has been finally determined by the agency and, in case the application is denied or the terms of the new license limited, until the last day for seeking review of the agency order or a later date fixed by order of the reviewing court.

3. No revocation, suspension, annulment or withdrawal of any license is lawful unless, before the institution of agency proceedings, the agency gave notice by certified mail to the licensee of facts or conduct which warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety or welfare imperatively require emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. ~~[Such proceedings]~~ *An agency's order of summary suspension may be issued by the agency* ~~*[, the executive head of the agency, a member]*~~ *or by the Chairman of the governing body of the agency* ~~*. [or an officer or employee of the agency acting within the scope of his authority.]*~~ *If the order of summary suspension is issued by* ~~*[a member]*~~ *the Chairman of the governing body of the agency,* ~~*[that member]*~~ *the Chairman shall not participate in any further proceedings of the agency relating to that order. Proceedings relating to the order of summary suspension* must be ~~[promptly]~~ instituted and determined ~~[.]~~ *within* ~~*[60]*~~ *45 days after the date of the order unless the agency and the licensee mutually agree in writing to a longer period.*

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

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Thank you, Mr. President. Amendment No. 9 amends the bill to provide that a summary suspension may be issued only by the state agency. Changes, from 60 days to 45 days after the date of the summary suspension order, the length of time the agency must complete its proceedings against the licensee.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 94.

Bill read second time.

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

Amendment No. 35.

"SUMMARY—Imposes various requirements relating to fire protection in the ~~[area]~~ *areas* of the Lake Tahoe Basin *and the Lake Mead Basin that are* located in this State. (BDR 42-444)"

"AN ACT relating to fire protection; imposing various requirements relating to fire protection in the ~~[area]~~ *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. ~~[(Chapter]~~ *(Chapters* 318, 473 and 474 of NRS) ~~[Section 1 of this bill requires the State Forester Firewarden to adopt regulations for enforcement by the various fire protection districts that include a portion of the Lake Tahoe Basin that is within this State to provide uniform guidelines for attaining defensible space around the individual properties located in that area.]~~ *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.

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

Section 1. ~~[Chapter 472 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~*1. The State Forester Firewarden shall adopt regulations applicable to the portion of the Lake Tahoe Basin that is located in this State to provide uniform guidelines for attaining defensible space around the individual properties located in that area. Such regulations must be enforced by each fire protection district created pursuant to chapter 318, 473 or 474 of*~~

~~*NRS that includes any portion of that area. Such regulations must include, without limitation, requirements which are similar to:*~~

~~*(a) The most recent edition of the International Wildland-Urban Interface Code published by the International Code Council; and*~~

~~*(b) Any applicable laws of the State of California to address the mitigation of hazards to life and property from fires in wildland and adjacent areas.*~~

~~*2. The State Forester Firewarden shall:*~~

~~*(a) To the extent practicable, ensure that the regulations adopted pursuant to subsection 1 do not conflict with any ordinances, rules or regulations adopted by the Tahoe Regional Planning Agency.*~~

~~*(b) Review any changes that are made to the International Wildland-Urban Interface Code and to any applicable laws of the State of California to determine whether it is appropriate or necessary to make similar changes to the regulations adopted pursuant to subsection 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 ~~[portion]~~ *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 ~~[section 1 of this act]~~ *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 ~~[section 1 of this act.]~~ *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. 3.]~~ *Sec. 6.* The State Forester Firewarden shall adopt the regulations required pursuant to ~~[section 1 of this act]~~ *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 ~~[2]~~ *5* of this act not later than July 1, 2010.

Senator Lee moved the adoption of the amendment.

Remarks by Senator Lee.

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

Thank you, Mr. President. Amendment No. 35 deletes section 1 of the bill and instead provides that the State Forester and the State Fire Marshal shall cooperate in the enforcement and the State Forester's assessment of codes, rules and regulations impacting the Lake Tahoe and Lake Mead Basins.

It clarifies that the State Fire Marshal and the State Forester Firewarden shall cooperate in the preparation of regulations relating to the mitigation of vegetation fire-hazard risks.

Deletes the references in the bill to *Uniform Fire Code* of the International Conference of Building Officials.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 108.

Bill read second time.

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

Amendment No. 22.

"SUMMARY— ~~[Requires]~~ *Revises provisions governing* the placement of ~~[solid]~~ markers on lode mining claims. (BDR 46-498)"

"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 ~~[and hollow metal post markers with solid metal post markers]~~ 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 ~~[solid]~~ *securely capped or crimped in a manner that securely closes the top of the post and have no open perforations.* ~~[and]~~ *This bill also provides* that any ~~[hollow metal post or]~~ durable plastic pipe used to mark a claim must be replaced on or before ~~[July 1, 2010.]~~ *November 1, 2011. 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 ~~*[solid, 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 ~~[8,]~~ 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. ~~*[Except as otherwise provided in subsection 8, a hollow metal post that was set before July 1, 2009, for the purpose of defining the boundaries of a lode mining claim shall be deemed to constitute a valid legal monument if:*~~

~~*(a) The post is at least 2 inches in diameter by 4 feet in length and is set 1 foot in the ground; and*~~

~~*(b) The post is securely capped with no open perforations.*~~

~~*8,]*~~ 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 a lode mining claim located before July 1, 2009, the boundaries of which are defined by a hollow metal post described in subsection 7,]*~~ or his successor in interest, ~~[may]~~ *shall, on or before ~~[July 1, 2010,]~~ November 1, 2011,* remove the durable plastic pipe ~~[described in subsection 6]~~ ~~*[or the hollow metal post]*~~ 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.

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 a hollow metal post]*~~ or the recording of a notice pursuant to subsection 7 ~~*[8]*~~ 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.

Senator Rhoads moved the adoption of the amendment.

Remarks by Senator Rhoads.

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

This has to do with the posts that are used for identifying mining claims. They have been using white pipe and insects, rodents and mice have fallen into the pipes. This bill says the posts must have a cap on top of it.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 125.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 48.

"SUMMARY— ~~[Prohibits the unauthorized possession, reading or capturing of another person's personal identifying information through radio frequency identification.]~~ *Makes changes relating to personal identifying information.* (BDR 15-481)"

"AN ACT relating to crimes; prohibiting ~~[the possession, reading or capturing of another person's personal identifying information through]~~ *certain acts relating to* radio frequency identification ~~[;]~~ *documents; revising the provisions relating to certain offenses involving the possession or use of personal identifying information;* providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

~~[This]~~ *Section 1 of this* bill prohibits a person from knowingly *,* ~~[and]~~ intentionally ~~[possessing, reading or capturing the personal identifying]~~ *and for the purpose of committing fraud, identity theft or any other unlawful act: (1) capturing, storing or reading* information *from the radio frequency identification document* of another person ~~[,]~~ without the knowledge and consent of the other person ~~[, through the use of radio frequency identification.]~~ *; or (2) retaining, using or disclosing information that the person knows to have been obtained from the radio frequency identification document of another person without the knowledge and consent of the other person.* This new crime is punishable as a category C felony.

Existing law establishes an exception to the statutory prohibitions relating to the possession or use of the personal identifying information of another person by providing that those prohibitions do not apply to a person who, without the intent to defraud or commit an unlawful act, possesses or uses the personal identifying information of another person pursuant to a financial transaction entered into with an authorized user of a payment card who has given permission for the financial transaction. (NRS 205.4655) Section 5 of this bill deletes from this exception the requirement that such an authorized user of a payment card must have given permission for the financial transaction.

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

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in this section, a person ~~[who]~~ shall not knowingly , ~~[and]~~ intentionally ~~[possesses, reads or captures the personal identifying information of another person using radio frequency identification, without that person's knowledge and prior consent,]~~ and for the purpose of committing fraud, identity theft or any other unlawful act:

(a) Capture, store or read information from the radio frequency identification document of another person without the other person's knowledge and prior consent; or

(b) Retain, use or disclose information that the person knows to have been obtained from the radio frequency identification document of another person without the other person's knowledge and prior consent.

2. A person who violates this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

~~[2.]~~ 3. The provisions of this section do not ~~[prohibit the possession or use of any personal identifying information through radio frequency identification]~~ apply to the capture, storage or reading of information from the radio frequency identification document of another person or the retention, use or disclosure of information known to have been obtained from the radio frequency identification document of another person by officers of local police, sheriff and metropolitan police departments and by agents of the Investigation Division of the Department of Public Safety ~~[while engaged~~

~~*in undercover investigations related to the lawful discharge of their duties.]*~~ *pursuant to a court order.*

~~*[3.]*~~ *4. The provisions of this section do not apply to the capture, storage or reading of information from the radio frequency identification document of another person or the retention, use or disclosure of information known to have been obtained from the radio frequency identification document of another person by a health care professional or law enforcement personnel for the purpose of:*

(a) Locating a person or providing triage or medical care during a disaster; or

(b) Providing emergency medical treatment to a person who is unable to give consent because of incapacitation or acute medical distress.

5. Except as otherwise provided in this subsection, the provisions of this section do not apply to the capture, storage or reading of information from the radio frequency identification document of another person or the retention, use or disclosure of information known to have been obtained from the radio frequency identification document of another person, or information derived therefrom, in the course of an act of security research, security experimentation or scientific inquiry regarding security that is pursued in good faith to increase the security and privacy of information stored on radio frequency identification documents, including, without limitation, an act that is useful in identifying and analyzing security flaws and vulnerabilities. The provisions of this subsection do not authorize:

(a) The disclosure of information from the radio frequency identification document of another person without his consent to any other person; or

(b) The sale or use of information from the radio frequency identification document of another person for any purpose that is not related to bona fide research, experimentation or scientific inquiry designed to increase security.

6. As used in this section ~~*f,*~~
~~*"radio]*~~ *:*

(a) "Identity theft" means a violation of the provisions of NRS 205.463, 205.464 or 205.465.

(b) "Radio frequency identification" means the use of electromagnetic radiating waves or reactive field coupling in the radio frequency portion of the spectrum to read or communicate ~~*[to or from]*~~ *personal identifying information to or from a radio frequency identification document through a variety of modulation and encoding schemes.*

(c) "Radio frequency identification document" means any document containing data which is issued to an individual and which that individual, and only that individual, uses alone or in conjunction with any other information for the primary purpose of establishing his identity.

Sec. 2. NRS 205.461 is hereby amended to read as follows:

205.461 As used in NRS 205.461 to 205.4657, inclusive, *and section 1 of this act,* unless the context otherwise requires, the words and terms defined in

NRS 205.4611 to 205.4629, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 205.46517 is hereby amended to read as follows:

205.46517 In any case in which a person is convicted of violating any provision of NRS 205.461 to 205.4657, inclusive, *and section 1 of this act,* the court records must clearly reflect that the violation was committed by the person convicted of the violation and not by the person whose personal identifying information forms a part of the violation.

Sec. 4. NRS 205.4653 is hereby amended to read as follows:

205.4653 A person who violates any provision of NRS 205.461 to 205.4657, inclusive, *and section 1 of this act* may be prosecuted for the violation whether or not the person whose personal identifying information forms a part of the violation:

1. Is living or deceased during the course of the violation or the prosecution.

2. Is an artificial person.

3. Suffers financial loss or injury as the result of the violation.

Sec. 5. NRS 205.4655 is hereby amended to read as follows:

205.4655 The provisions of NRS 205.461 to 205.4657, inclusive, *and section 1 of this act* do not apply to any person who, without the intent to defraud or commit an unlawful act, possesses or uses any personal identifying information of another person:

1. In the ordinary course of his business or employment; or

2. Pursuant to a financial transaction entered into with an authorized user of a payment card . ~~[who has given permission for the financial transaction.]~~

Sec. 6. NRS 205.4657 is hereby amended to read as follows:

205.4657 1. In any prosecution for a violation of any provision of NRS 205.461 to 205.4657, inclusive, *and section 1 of this act,* the State is not required to establish and it is no defense that:

(a) An accessory has not been convicted, apprehended or identified; or

(b) Some of the acts constituting elements of the crime did not occur in this State or that where such acts did occur they were not a crime or elements of a crime.

2. In any prosecution for a violation of any provision of NRS 205.461 to 205.4657, inclusive, *and section 1 of this act,* the violation shall be deemed to have been committed and may be prosecuted in any jurisdiction in this State in which:

(a) The person whose personal identifying information forms a part of the violation currently resides or is found; or

(b) Any act constituting an element of the crime occurred, regardless of whether the defendant was ever physically present in that jurisdiction.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

Thank you, Mr. President. The amendment adds certain exemptions to the use of radio frequency identification, including uses by law enforcement personnel under court order, healthcare providers under certain circumstances and those engaged in legitimate scientific research.

The amendment also contains a housekeeping provision that makes consistent two existing statutes regarding the use of a payment card in a financial transaction.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 131.

Bill read second time.

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

Amendment No. 129.

"SUMMARY—Revises provisions governing mental health consortiums that provide mental health services to children with emotional disturbance. (BDR 39-660)"

"AN ACT relating to mental health; *revising provisions governing the membership of mental health consortiums;* revising provisions governing the plans required of each mental health consortium for the provision of services to children with emotional disturbance; authorizing each mental health consortium to request one legislative measure for a regular legislative session; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law establishes a mental health consortium in each county whose population is 100,000 or more (currently Clark and Washoe Counties) and one mental health consortium in the region that comprises all other counties ~~[.]~~ *and prescribes the membership of each mental health consortium.* (NRS 433B.333) *Section 1 of this bill revises the membership of a mental health consortium to include a representative of an agency which provides services for the treatment and prevention of substance abuse.*

Each consortium is required to submit to the Department of Health and Human Services a recommended plan for the provision of mental health services to children with emotional disturbance within the jurisdiction of the consortium. The Department may reject the plan and require the consortium to revise and resubmit the plan. (NRS 433B.335) Section ~~[1]~~ *2* of this bill revises the required contents of the plan by requiring a long-term strategic plan which is effective for 10 years and which includes the strategies and goals of the consortium for providing services to children with emotional disturbance. Section ~~[1]~~ *2* also removes the authority of the Department to reject the plan. Section ~~[1]~~ *2* further requires each consortium to submit to the Director of the Department *and the Commission on Mental Health and Developmental Services* in even-numbered years any revisions to the long-term strategic plan and a prioritized list of services and costs necessary to implement the plan. The list of priorities and costs submitted by each

consortium must be considered by the Director in preparing the biennial budget request for the Department. In odd-numbered years, each consortium must submit a report regarding the status of the long-term strategic plan and any revisions made to the plan.

Section ~~[2]~~ *3* of this bill authorizes each mental health consortium to submit a request for one legislative measure for a regular legislative session. (Chapter 218 of NRS)

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

Section 1. NRS 433B.333 is hereby amended to read as follows:

433B.333 1. A mental health consortium is hereby established in each of the following jurisdictions:

(a) A county whose population is 100,000 or more; and

(b) The region consisting of all counties whose population are less than 100,000.

2. In a county whose population is 100,000 or more, such a consortium must consist of at least the following persons appointed by the Administrator:

(a) A representative of the Division;

(b) A representative of the agency which provides child welfare services;

(c) A representative of the Division of Health Care Financing and Policy of the Department;

(d) A representative of the board of trustees of the school district in the county;

(e) A representative of the local juvenile probation department;

(f) A representative of the local chamber of commerce or business community;

(g) A private provider of mental health care;

(h) A provider of foster care; ~~[and]~~

(i) A parent of a child with an emotional disturbance ~~[.]~~ *; and*

(j) A representative of an agency which provides services for the treatment and prevention of substance abuse.

3. In the region consisting of counties whose population are less than 100,000, such a consortium must consist of at least the following persons appointed by the Administrator:

(a) A representative of the Division of Mental Health and Developmental Services of the Department;

(b) A representative of the agency which provides child welfare services in the region;

(c) A representative of the Division of Health Care Financing and Policy of the Department;

(d) A representative of the boards of trustees of the school districts in the region;

(e) A representative of the local juvenile probation departments;

(f) A representative of the chambers of commerce or business community in the region;

(g) A private provider of mental health care;

(h) A provider of foster care; ~~[and]~~

(i) A parent of a child with an emotional disturbance ~~[.]~~ *; and*

(j) A representative of an agency which provides services for the treatment and prevention of substance abuse.

~~[Section 1.]~~ *Sec. 2.* NRS 433B.335 is hereby amended to read as follows:

433B.335 1. ~~[On or before July 1 of each year, each]~~ *Each* mental health consortium established pursuant to NRS 433B.333 shall prepare *and submit to the Director of the Department* a ~~[recommended]~~ *long-term strategic* plan for the provision of mental health services to children with emotional disturbance in the jurisdiction of the consortium. *A plan submitted pursuant to this section is valid for 10 years after the date of submission, and each consortium shall submit a new plan upon its expiration.*

2. In preparing the ~~[recommended]~~ *long-term strategic* plan ~~[,]~~ *pursuant to subsection 1*, each mental health consortium must be guided by the following principles:

(a) The system of mental health services set forth in the plan should be centered on children with emotional disturbance and their families, with the needs and strengths of those children and their families dictating the types and mix of services provided.

(b) The families of children with emotional disturbance, including, without limitation, foster parents, should be active participants in all aspects of planning, selecting and delivering mental health services at the local level.

(c) The system of mental health services should be community-based and flexible, with accountability and the focus of the services at the local level.

(d) The system of mental health services should provide timely access to a comprehensive array of cost-effective mental health services.

(e) Children and their families who are in need of mental health services should be identified as early as possible through screening, assessment processes, treatment and systems of support.

(f) Comprehensive mental health services should be made available in the least restrictive but clinically appropriate environment.

(g) The family of a child with an emotional disturbance should be eligible to receive mental health services from the system.

(h) Mental health services should be provided to children with emotional disturbance in a sensitive manner that is responsive to cultural and gender-based differences and the special needs of the children.

3. The *long-term strategic* plan prepared pursuant to ~~[this section]~~ *subsection 1* must include:

(a) An assessment of the need for mental health services in the jurisdiction of the consortium;

(b) *The long-term strategies and goals of the consortium for providing mental health services to children with emotional disturbance within the jurisdiction of the consortium;*

(c) A description of the types of services to be offered to children with emotional disturbance ~~[based on the amount of money available to pay the costs of such mental health services]~~ within the jurisdiction of the consortium;

~~[(c)]~~ *(d)* Criteria for eligibility for those services;

~~[(d)]~~ *(e)* A description of the manner in which those services may be obtained by eligible children;

~~[(e)]~~ *(f)* The manner in which the costs for those services will be allocated;

~~[(f)]~~ *(g)* The mechanisms to manage the money provided for those services;

~~[(g)]~~ *(h)* Documentation of the number of children with emotional disturbance who are not currently being provided services, the costs to provide services to those children, the obstacles to providing services to those children and recommendations for removing those obstacles;

~~[(h)]~~ *(i)* Methods for obtaining additional money and services for children with emotional disturbance from private and public entities; and

~~[(i)]~~ *(j)* The manner in which family members of eligible children and other persons may be involved in the treatment of the children.

4. On or before ~~[July 15]~~ *January 31* of each *even-numbered* year, each mental health consortium shall submit ~~[the recommended plan prepared pursuant to this section to the Department. If the Department disapproves the plan, the Department shall submit the plan to the consortium for revision and resubmission]~~ to the *Director of the* Department ~~[.]~~ ~~*[,]*~~ *and the Commission on Mental Health and Developmental Services created pursuant to NRS 232.361:*

(a) A list of the priorities of services necessary to implement the long-term strategic plan submitted pursuant to subsection 1 and an itemized list of the costs to provide those services; and

(b) A description of any revisions to the long-term strategic plan adopted by the consortium during the immediately preceding year.

5. In preparing the biennial budget request for the Department, the Director of the Department shall consider the list of priorities submitted pursuant to subsection 4 by each mental health consortium. On or before September 30 of each even-numbered year, the Director of the Department shall submit to each mental health consortium a report which includes a description of:

(a) Each item on the list of priorities of the consortium that was included in the biennial budget request for the Department; and

(b) Each item on the list of priorities of the consortium that was not included in the biennial budget request for the Department and an explanation for the exclusion.

6. On or before January 31 of each odd-numbered year, each consortium shall submit to the Director of the Department ~~*[,]*~~ *and the Commission on*

Mental Health and Developmental Services created pursuant to NRS 232.361:

(a) A report regarding the status of the long-term strategic plan submitted pursuant to subsection 1, including, without limitation, the status of the strategies, goals and services included in the plan; and

(b) A description of any revisions to the long-term strategic plan adopted by the consortium during the immediately preceding year.

~~[Sec. 2.]~~ *Sec. 3.* Chapter 218 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each mental health consortium established pursuant to NRS 433B.333 may directly request the Legislative Counsel and the Legal Division of the Legislative Counsel Bureau to prepare not more than one legislative measure for a regular legislative session.

2. A request for the drafting of a legislative measure pursuant to this section must be submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the Legislature.

3. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. The measures requested pursuant to this section must be prefiled on or before December 15 preceding the regular session. A measure that is not prefiled on or before that date shall be deemed withdrawn.

~~[Sec. 3.]~~ *Sec. 4.* NRS 218.240 is hereby amended to read as follows:

218.240 1. The Legislative Counsel and the Legal Division of the Legislative Counsel Bureau shall prepare and assist in the preparation and amendment of legislative measures when requested or upon suggestion as provided in NRS 218.240 to 218.255, inclusive ~~[.]~~ *, and section ~~[2]~~ 3 of this act.* Except as otherwise provided in those provisions, the Legislative Counsel and the Legal Division of the Legislative Counsel Bureau shall not prepare or assist in the preparation and amendment of legislative measures directly submitted or requested by a natural person, corporation, firm, association or other entity, including an organization that represents governmental agencies, unless the requester, or if the requester is a natural person the office or other position held by the person, is created by the Constitution or laws of this State.

2. The Legislative Counsel shall give consideration to and service concerning any measure before the Legislature which is requested by the Governor, the Senate or Assembly, or any committee of the Legislature having the measure before it for consideration.

~~[Sec. 4.]~~ *Sec. 5.* Section ~~[2]~~ 3 of this act is hereby amended to read as follows:

Sec. ~~[2.]~~ 3. Chapter 218 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each mental health consortium established pursuant to NRS 433B.333 may directly request the Legislative Counsel and the

Legal Division of the Legislative Counsel Bureau to prepare not more than one legislative measure for a regular legislative session.

2. A request for the drafting of a legislative measure pursuant to this section must be submitted to the Legislative Counsel on or before September 1 preceding the commencement of a regular session of the Legislature.

3. Each request made pursuant to this section must be on a form prescribed by the Legislative Counsel. ~~[The measures requested pursuant to this section must be prefiled on or before December 15 preceding the regular session. A measure that is not prefiled on or before that date shall be deemed withdrawn.]~~

~~[Sec. 5.]~~ *Sec. 6.* On or before January 31, 2010, each mental health consortium established pursuant to NRS 433B.333 *, as amended by section 1 of this act,* shall submit to the Director of the Department of Health and Human Services *and the Commission on Mental Health and Developmental Services created pursuant to NRS 232.361* the long-term strategic plan required pursuant to NRS 433B.335, as amended by section ~~[1]~~ *2* of this act.

~~[Sec. 6.]~~ *Sec. 7.* 1. This section *,* ~~[and]~~ sections 1 ~~[, 2, 3]~~ *to 4, inclusive,* and ~~[5]~~ *6* of this act become effective on July 1, 2009.

2. Section ~~[4]~~ 5 of this act becomes effective on July 1, 2011.

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Senator Cegavske requested that her remarks be entered in the Journal.

Amendment No. 129 adds the following provision to Senate Bill No. 131. The amendment requires each mental-health consortium to include a representative of an agency which provides services for the treatment and prevention of substance abuse. It requires the consortiums to submit any revisions to the long-term strategic plan and a prioritized list of services and costs necessary to implement the plan to the Commission on Mental Health and Developmental Services in addition to the Director of the Department of Health and Human Services.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 134.

Bill read second time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 82.

"SUMMARY—Revises provisions concerning the increased penalty imposed for certain traffic violations occurring in work zones. (BDR 43-180)"

"AN ACT relating to traffic laws; revising provisions concerning the increased penalty imposed for certain traffic violations that occur in work zones; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the doubling of the penalty imposed against a person convicted of speeding or convicted of certain other traffic offenses that occur

in a highway construction zone if: (1) workers are present; or (2) the effects of the offense are otherwise aggravated because of certain highway conditions that exist as a result of the highway construction. (NRS 484.3667) ~~[This bill maintains the double penalty if such an offense occurs in a highway construction zone when workers are present. However, this bill provides that a court may, but is not required to, impose a reduced additional penalty of not more than one-half the penalty imposed for the primary offense if the offense occurs in a highway construction zone when workers are not present but where the effects of the offense are still otherwise aggravated because of certain highway conditions that exist as a result of the highway construction.]~~ *Section 1 of this bill provides that the additional penalty must also be imposed if the offense occurs within a temporary traffic control zone in which workers are performing work other than highway maintenance or construction. Section 2 of this bill removes the requirement that a governmental entity or person with whom the governmental entity contracts post signs to mark the beginning and end of a temporary traffic control zone under certain circumstances. Section 2 also provides that a person is not subject to the additional penalty if the violation occurred in a temporary traffic control zone which is not required to be marked, unless the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to $1,000 or more.*

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

Section 1. NRS 484.254 is hereby amended to read as follows:

484.254 1. It is unlawful for a driver of a vehicle to fail or refuse to comply with any signal of an authorized flagman serving in a traffic control capacity in a clearly marked area of highway construction or maintenance ~~[.]~~ *or any other area which has been designated as a temporary traffic control zone.*

2. A district attorney shall prosecute all violations of subsection 1 which occur in his jurisdiction and which result in injury to any person performing highway construction or maintenance *or performing other work within an area designated as a temporary traffic control zone* unless the district attorney has good cause for not prosecuting the violation. In addition to any other penalty, if a driver violates any provision of subsection 1 and the violation results in injury to any person performing highway construction or maintenance ~~[,]~~ *or performing other work within an area designated as a temporary traffic control zone,* or in damage to property in an amount of not less than $1,000, the driver shall be punished by a fine of not less than $1,000 or more than $2,000, and ordered to perform 120 hours of community service.

3. A person who violates any provision of subsection 1 may be subject to the additional penalty set forth in *subsection 1 of* NRS 484.3667.

4. As used in this section, "authorized flagman serving in a traffic control capacity" means:

(a) An employee of the Department of Transportation or of a contractor performing highway construction or maintenance *or performing other work within an area designated as a temporary traffic control zone* for the Department of Transportation while he is carrying out the duties of his employment;

(b) An employee of any other governmental entity or of a contractor performing highway construction or maintenance *or performing other work within an area designated as a temporary traffic control zone* for the governmental entity while he is carrying out the duties of his employment; or

(c) Any other person employed by a private entity performing highway construction or maintenance *or performing other work within an area designated as a temporary traffic control zone* while he is carrying out the duties of his employment if the person has satisfactorily completed training as a flagman approved or recognized by the Department of Transportation.

Sec. 2. NRS 484.3667 is hereby amended to read as follows:

484.3667 1. Except as otherwise provided in ~~[subsection]~~ ~~[2,]~~ ~~*[3, if]*~~ *subsections 2 and 6,* a person who is convicted of a violation of a speed limit, or of NRS 484.254, 484.278, 484.289, 484.2895, 484.291 to 484.301, inclusive, 484.305, 484.309, 484.311, 484.335, 484.337, 484.361, 484.363, 484.3765, 484.377, 484.3775, 484.379, 484.379778, 484.448, 484.453 or 484.479, that occurred:

(a) In an area designated as a temporary traffic control zone *;* ~~[in which construction, maintenance or repair of a highway is conducted;]~~ and

(b) At a time when the workers who are performing ~~[the]~~ construction, maintenance or repair of the highway *or other work* are present, or when the effects of the act may be aggravated because of the condition of the highway caused by construction, maintenance or repair, including, without limitation, reduction in lane width, reduction in the number of lanes, shifting of lanes from the designated alignment and uneven or temporary surfaces, including, without limitation, modifications to road beds, cement-treated bases, chip seals and other similar conditions,

➥ shall be punished

~~*[➥ the appropriate court shall punish the person]*~~ by imprisonment or by a fine, or both, for a term or an amount equal to and in addition to the term of imprisonment or amount of the fine, or both, that the court imposes for the primary offense. Any term of imprisonment imposed pursuant to this subsection runs consecutively with the sentence prescribed by the court for the crime. This subsection does not create a separate offense, but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.

2. ~~*[Except as otherwise provided in this subsection and subsection 3, if a person is convicted of a violation of a speed limit, or of NRS 484.278, 484.289, 484.2895, 484.291 to 484.301, inclusive, 484.305, 484.309,*~~

~~*484.311, 484.335, 484.337, 484.361, 484.363, 484.3765, 484.377, 484.3775, 484.379, 484.379778, 484.448, 484.453 or 484.479, that occurred:*~~

~~*(a) In an area designated as a temporary traffic control zone in which construction, maintenance or repair of a highway is conducted; and*~~

~~*(b) At a time when the workers who are performing the construction, maintenance or repair of the highway are not present, but when the effects of the act may be aggravated because of the condition of the highway caused by construction, maintenance or repair, including, without limitation, reduction in lane width, reduction in the number of lanes, shifting of lanes from the designated alignment and uneven or temporary surfaces, including, without limitation, modifications to road beds, cement-treated bases, chip seals and other similar conditions,*~~

~~*" the appropriate court may punish the person by imprisonment or by a fine, or both, for a term or an amount in addition to the term of imprisonment or amount of the fine, or both, that the court imposes for the primary offense. Any additional term of imprisonment or fine, or both, imposed pursuant to this subsection must not exceed 50 percent of the term of imprisonment or fine, or both, that the court imposes for the primary offense. Any term of imprisonment imposed pursuant to this subsection runs consecutively with the sentence prescribed by the court for the crime. This subsection does not create a separate offense, but provides an additional penalty for the primary offense, whose imposition is contingent upon the finding of the prescribed fact.*~~

~~*3.]*~~ The additional penalty imposed pursuant to subsection 1 ~~*[or 2]*~~ must not exceed a total of $1,000, 6 months of imprisonment or 120 hours of community service.

3. ~~*[4. A]*~~ *Except as otherwise provided in subsection 5, a* governmental entity that designates an area *or authorizes the designation of an area* as a temporary traffic control zone in which construction, maintenance or repair of a highway *or other work* is conducted, or the person with whom the governmental entity contracts to provide such service, shall cause to be erected:

(a) A sign located before the beginning of such an area stating "DOUBLE ~~*["INCREASED]*~~ PENALTIES IN WORK ZONES" to indicate a double ~~*[that an increased]*~~ penalty may be imposed pursuant to this section;

(b) A sign to mark the beginning of the temporary traffic control zone; and

(c) A sign to mark the end of the temporary traffic control zone.

4. ~~*[5.]*~~ A person who otherwise would be subject to an additional penalty pursuant to this section is not relieved of any criminal liability because signs are not erected as required by subsection 3 ~~*[4]*~~ if the violation results in injury to any person performing highway construction or maintenance *or other work* in the temporary traffic control zone or in damage to property in an amount equal to $1,000 or more.

5. The requirements of subsection 3 do not apply to an area designated as a temporary traffic control zone:

(a) Pursuant to an emergency which results from a natural or man-made disaster and which threatens the health, safety or welfare of the public; or

(b) On a public highway where the posted speed limit is 25 miles per hour or less and that provides access to or is appurtenant to a residential area.

6. A person who would otherwise be subject to an additional penalty pursuant to this section is not subject to an additional penalty if the violation occurred in a temporary traffic control zone for which signs are not erected pursuant to subsection 5, unless the violation results in injury to any person performing highway construction or maintenance or other work in the temporary traffic control zone or in damage to property in an amount equal to $1,000 or more.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Thank you, Mr. President. Amendment No. 82 to Senate Bill No.134 makes it unlawful for a driver of a motor vehicle to fail or refuse to comply with any signal of an authorized flagman serving in a traffic-control capacity in an area that has been designated as a temporary traffic-control zone.

The amendment also expands the protected activity of flagmen to include "other work" besides highway construction or maintenance.

The amendment retains language in section 2 regarding conditions that may aggravate the severity of an unlawful act.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 144.

Bill read second time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 185.

"SUMMARY—Enacts provisions governing public safety bomb squads. (BDR 42-909)"

"AN ACT relating to explosives; setting forth the primary responsibilities of a public safety bomb squad ~~[, providing that a public safety bomb squad is the sole entity having jurisdiction to engage in activity as a public safety bomb squad]~~ under certain circumstances; requiring a public safety bomb squad to comply with certain national guidelines to the extent practicable; ~~[requiring the reporting of each actual or suspected improvised explosive device; prohibiting a person from preventing or obstructing a public safety bomb squad or bomb technician from engaging in certain actions; providing a penalty;]~~ and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill sets forth various provisions governing the activities of public safety bomb squads and bomb technicians. *Section 7.5 of this bill provides that the provisions of the bill apply in each county in this State: (1) in which there is a public safety bomb squad; and (2) in the absence of a*

memorandum of understanding setting forth the responsibilities of the public safety bomb squad. Section 7.5 also provides that in a county in which there is not a public safety bomb squad, the sheriff of the county or his designee is responsible for carrying out those duties of a public safety bomb squad which he determines are appropriate in that county. Section 4 of this bill defines a "bomb technician" as a person who is certified as a bomb technician by the Federal Bureau of Investigation and is an active member of a public safety bomb squad. Section 6 of this bill defines a "public safety bomb squad" as a ~~[specialized team or]~~ group which consists ~~[solely]~~ of members who are bomb technicians and which is accredited by the Federal Bureau of Investigation. Section 8 of this bill sets forth the primary responsibilities of a public safety bomb squad. Section 9 of this bill specifies that each public safety bomb squad is ~~[the sole entity having jurisdiction to act as a public safety bomb squad within the city or county in which the public safety bomb squad is located.]~~ *responsible for all render-safe procedures for all actual or suspected improvised explosive devices to which the public safety bomb squad responds.* Section 9 also imposes duties upon a public safety bomb squad, including the duty to provide maximum safety for the public in accordance with certain national guidelines. Section 10 of this bill requires ~~[any]~~ *each* law enforcement ~~[officer or other person who receives a report or otherwise becomes aware of an]~~ *agency in this State to establish a plan to ensure the timely notification of the appropriate public safety bomb squad of any* actual or suspected improvised explosive device *.* ~~[to notify immediately the public safety bomb squad in whose jurisdiction the explosive device is located.]~~ Section 7 of this bill specifies that ~~[such]~~ a *suspected improvised explosive* device includes any item that, based on training, experience or circumstances, would cause a reasonable person to believe that the item may pose an immediate threat of an explosive or destructive nature. Section 11 of this bill provides that each bomb squad commander is responsible for the activities of the public safety bomb squad, requires the bomb squad commander to establish policies and tactical plans consistent with the *National Guidelines for Bomb Technicians* and provides that the bomb squad commander retains final authority concerning the ~~[activities of the public safety bomb squad. Section 12 of this bill prohibits a person from hindering, preventing or obstructing a public safety bomb squad or bomb technician from responding to a report of an actual or suspected improvised explosive device and makes a person who violates that prohibition subject to punishment for not less than a misdemeanor.]~~ *render-safe procedures for incidents involving explosives to which the public safety bomb squad responds.*

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

Section 1. Chapter 476 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to ~~[12,]~~ *11*, inclusive, of this act.

Sec. 2. *As used in sections 2 to ~~[12,]~~ 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"Bomb squad commander" means a bomb technician who serves as the point of contact for and speaks on behalf of a public safety bomb squad.*

Sec. 4. *"Bomb technician" means a person who:*

1. Is certified as a bomb technician by the Federal Bureau of Investigation; and

2. Is an active member of a public safety bomb squad.

Sec. 5. *"National Guidelines for Bomb Technicians" means the guidelines published by the National Bomb Squad Commanders Advisory Board that set forth:*

1. The requirements for certifying a bomb technician;

2. The requirements for accrediting a public safety bomb squad; and

3. The fundamental operational doctrine of the bomb squad profession, including, without limitation, minimum principles of safety for that profession.

Sec. 6. *"Public safety bomb squad" means a ~~[specialized team or]~~ group that:*

1. Consists ~~[solely]~~ of members who are bomb technicians; and

2. Is accredited as a bomb squad by the Federal Bureau of Investigation.

Sec. 7. *"Suspected improvised explosive device" means any item that, based on training, experience or circumstances, would cause a reasonable person to believe that the item may pose an immediate threat of an explosive or destructive nature. ~~[The term includes any such item that appears to be unattended or abandoned.]~~*

Sec. 7.5. 1. The provisions of sections 2 to 11, inclusive, of this act apply in each county in this State:

(a) In which there is a public safety bomb squad; and

(b) In the absence of a memorandum of understanding setting forth the responsibilities of each public safety bomb squad in the county.

2. In a county in which there is no public safety bomb squad, the sheriff of the county or his designee shall carry out those duties of a public safety bomb squad which he determines are appropriate in that county.

Sec. 8. *The primary responsibilities of each public safety bomb squad are to:*

1. Make safe any area and remove from the area any:

(a) Actual or suspected improvised explosive device;

(b) ~~[Ammunition;~~

~~(c)]~~ Explosive; or

~~[(d)]~~ (c) Incendiary device. ~~[; or~~

~~(e) Pyrotechnic item.]~~

2. Provide legal and safe transportation, disposal and storage of any item specified in subsection 1.

3. ~~[Investigate the scene]~~ Assist the primary law enforcement agency with the investigation of each crime where a bombing occurs ~~[within the jurisdiction of the public safety bomb squad.~~

~~4. Collect and preserve any evidence obtained during an investigation specified in subsection 3.~~

~~5. Prepare and provide testimony in court relating to the activities of the public safety bomb squad.~~

~~6.]~~ or where any improvised explosive device has been rendered safe.

4. Store, maintain and prepare an inventory of all equipment used by the public safety bomb squad.

~~[~~ ~~7. Provide]~~

5. Upon request, provide technical support for any ~~[other specialized team or group,]~~ law enforcement agency, including, without limitation, providing protection for any dignitary in this State.

~~[8.]~~ 6. Prepare and participate in a program of training relating to explosives.

~~[9.]~~ 7. Maintain and be familiar with a library of technical publications and other information concerning explosives.

~~[10.]~~ 8. Maintain professional and training liaisons with:

(a) Other state and local bomb squads;

(b) ~~[Canine units of law]~~ Law enforcement agencies ; ~~[that are used to detect explosives;]~~

(c) Military units;

(d) Federal agencies; and

(e) Professional associations.

~~[11.]~~ 9. Compile and report to the appropriate persons all technical data obtained by the public safety bomb squad concerning explosive devices and incidents involving explosives that occur within the jurisdiction of the public safety bomb squad.

~~[12. Develop an emergency plan for:~~

~~(a) Responding to a bomb threat;~~

~~(b) The safe handling of any actual or suspected improvised explosive device; and~~

~~(c) Conducting an investigation at the scene of a crime specified in subsection 3.~~

~~13.]~~ 10. Develop programs for members of the general public and private organizations concerning safety and awareness during a bomb threat.

~~[14.]~~ 11. Report to the appropriate military unit any military ordnance which is found or recovered by the public safety bomb squad.

Sec. 9. *~~[Each]~~*

1. Except as otherwise provided in subsection 2, each public safety bomb squad:

~~[1. Is the sole entity having jurisdiction to engage in activity as a public safety bomb squad]~~

(a) Is responsible for all render-safe procedures for all actual or suspected improvised explosive devices ~~[within the city or county in which the public safety bomb squad is located;~~

~~2.]~~ to which the public safety bomb squad responds; and

(b) Shall, to the extent practicable in conducting its activities, provide maximum safety for members of the general public and any other public safety bomb squad in accordance with the National Guidelines for Bomb Technicians and the National Strategic Plan for U.S. Bomb Squads published by the National Bomb Squad Commanders Advisory Board . ~~[; and~~

~~3. Shall carry out the primary responsibilities of the public safety bomb squad specified in section 8 of this act for the city or county in which the public safety bomb squad is located and for any other jurisdiction calling upon the public safety bomb squad to carry out those primary responsibilities.]~~

2. At an airport that has an airport security program or airport emergency plan approved by the Federal Aviation Administration of the United States Department of Transportation or the Transportation Security Administration of the United States Department of Homeland Security, the public safety bomb squad shall carry out the primary responsibilities specified in section 8 of this act in accordance with the approved airport security program or airport emergency plan.

Sec. 10. *~~[Any]~~ Each law enforcement ~~[officer or other person who receives a report or otherwise becomes aware of an actual or suspected improvised explosive device shall immediately notify the public safety bomb squad in whose jurisdiction the]~~ agency in this State shall establish a plan to ensure the timely notification of the appropriate public safety bomb squad of any actual or suspected improvised explosive device . ~~[is located.]~~*

Sec. 11. *Each bomb squad commander:*

1. Is responsible for the activities of the public safety bomb squad concerning responses to actual or suspected improvised explosive devices ; ~~[within the jurisdiction of the public safety bomb squad;]~~

2. Shall establish policies and tactical plans consistent with the National Guidelines for Bomb Technicians; ~~[and]~~

3. Shall work cooperatively with the appropriate law enforcement agencies to remediate any incident involving an explosive to which the public safety bomb squad responds; and

4. Retains final authority for the ~~[remediation of incidents involving explosives that occur within the jurisdiction of]~~ render-safe procedures for any incident involving an explosive to which the public safety bomb squad ~~[.]~~ responds.

Sec. 12. ~~*[Every person who, with the intent to prevent or obstruct the actions of a public safety bomb squad or bomb technician in response to a report of an actual or suspected improvised explosive device, hinders, prevents or obstructs the public safety bomb squad or bomb technician from engaging in those actions is guilty of a public offense, as prescribed in*~~

~~*NRS 193.155, proportionate to the value of the loss resulting therefrom and in no event less than a misdemeanor.]*~~ *(Deleted by amendment.)*

Sec. 13. NRS 476.005 is hereby amended to read as follows:

476.005 As used in this chapter, *unless the context otherwise requires,* "explosive" means any explosive material included in the list of explosive materials published in the Federal Register and revised annually by the Attorney General of the United States pursuant to 18 U.S.C. §§ 841 et seq.

Sec. 14. NRS 476.100 is hereby amended to read as follows:

476.100 If the provisions of chapter 40 of Title 18 of the United States Code do not apply to an activity, substance or item pursuant to 18 U.S.C. § 845(a), ~~[this chapter does]~~ *the provisions of NRS 476.005 to 476.100, inclusive, do* not apply to the activity, substance or item.

Senator Amodei moved the adoption of the amendment.

Remarks by Senator Amodei.

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

Thank you, Mr. President. I would like to thank the Committee. This amendment was the result of many hearings.

The amendment amends chapter 476 of the NRS. A situation arose in the State's major metropolitan area where, in the absence of guidance, there were some jurisdictional and operational questions regarding explosive devices. The amendment says that, if there is a memorandum of understanding between the major public-service agencies in the jurisdiction, that the memorandum is the primary guide for how the situations are taken care of. In the absence of a memorandum, if there is an FBI certified public-safety bomb squad, then, their procedures will be the ones that rule in that county.

If you are in the rural areas and there is no certified bomb squad, it puts the responsibility on the sheriff of the county to deal with these issues as they see fit. In most of the rural counties in the State, that is done through memorandums of understanding and inter-local agreements on a regional basis with bomb squads in those counties that are certified and who travel outside of county lines to take care of that. For purposes of our major metropolitan airports, there is language in the bill that indicates that any bomb-squad activities undertaken will be in accordance with the plans at those airports in conjunction with the Federal Aviation Administration and the Department of Homeland Security TSA.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 158.

Bill read second time and ordered to third reading.

Senate Bill No. 164.

Bill read second time.

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

Amendment No. 135.

"SUMMARY—Revises provisions governing charter schools and university schools for profoundly gifted pupils. (BDR 34-298)"

"AN ACT relating to education; revising provisions governing the renewal of a written charter for a charter school; revising provisions regarding the membership of a governing body of a charter school; revising provisions

governing reimbursement to sponsors of charter schools for certain administrative costs; revising provisions governing the regional training programs for the professional development of teachers and administrators; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill revises the time by which a charter school must submit an application for the renewal of the written charter from not less than 90 days before the expiration of the charter to not less than 120 days before the expiration of the charter. (NRS 386.530)

Existing law prescribes the membership of a governing body of a charter school. (NRS 386.549) Section 2 of this bill authorizes the sponsor of the charter school *, upon the request of the governing body,* to ~~[appoint]~~ *nominate* one additional member to the governing body.

Existing law authorizes the sponsor of a charter school to request, upon completion of each school year, reimbursement from the governing body of the charter school for the administrative costs associated with sponsorship. (NRS 386.570) Section 3 of this bill revises the payments for reimbursement of administrative costs from yearly to quarterly.

Existing law creates four regional training programs for the professional development of teachers and administrators. Each regional training program is required to provide certain services to the school districts within the primary jurisdiction of the program. (NRS 391.512) Sections 4-7 of this bill require each regional training program to also provide services to each charter school located within the primary jurisdiction of the regional training program, regardless of the sponsor of the charter school, and each university school for profoundly gifted pupils located within the primary jurisdiction of the regional training program.

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 386.549 is hereby amended to read as follows:

386.549 1. The governing body of a charter school ~~[:~~

~~(a) Must]~~ *must* consist of:

~~[(1)]~~ *(a)* At least three teachers, as defined in subsection ~~[5;]~~ ~~*[7;]*~~ *10;* or

~~[(2)]~~ *(b)* Two teachers, as defined in subsection ~~[5,]~~ ~~*[7,]*~~ *10,* and one person who previously held a license to teach issued pursuant to chapter 391 of NRS as long as his license was held in good standing, including, without limitation, a retired teacher.

~~[(b) May]~~ ~~[consist of,]~~

2. The governing body of a charter school may include, without limitation, parents and representatives of nonprofit organizations and businesses.

~~*[*~~ ~~*(c) May include]*~~

3. After the formation of the governing body of a charter school, the governing body may request that the sponsor nominate one person ~~*[appointed by the sponsor of the charter school.]*~~ *to serve on the governing body.*

~~[➥]~~ *4.* Not more than two persons who serve on the governing body *of a charter school* may represent the same organization or business or otherwise represent the interests of the same organization or business.

~~*[2.]*~~ *5.* A majority of the members of the governing body must reside in this State.

~~*[3.]*~~ *6.* If the membership of the governing body changes, the governing body shall provide written notice to the sponsor of the charter school within 10 working days after such change.

~~[2.]~~ ~~*[4.]*~~ *7.* A person may serve on the governing body only if he submits an affidavit to the Department indicating that the person:

(a) Has not been convicted of a felony relating to serving on the governing body of a charter school or any offense involving moral turpitude.

(b) Has read and understands material concerning the roles and responsibilities of members of governing bodies of charter schools and other material designed to assist the governing bodies of charter schools, if such material is provided to the person by the Department.

~~[3.]~~ ~~*[5.]*~~ *8.* The governing body of a charter school is a public body. It is hereby given such reasonable and necessary powers, not conflicting with the Constitution and the laws of the State of Nevada, as may be requisite to attain the ends for which the charter school is established and to promote the welfare of pupils who are enrolled in the charter school.

~~[4.]~~ ~~*[6.]*~~ *9.* The governing body of a charter school shall, during each calendar quarter, hold at least one regularly scheduled public meeting in the county in which the charter school is located.

~~[5.]~~ ~~*[7.]*~~ *10.* As used in subsection 1, "teacher" means a person who:

(a) Holds a current license to teach issued pursuant to chapter 391 of NRS; and

(b) Has at least 2 years of experience as an employed teacher.

➥ The term does not include a person who is employed as a substitute teacher.

Sec. 3. NRS 386.570 is hereby amended to read as follows:

386.570 1. Each pupil who is enrolled in a charter school, including, without limitation, a pupil who is enrolled in a program of special education in a charter school, must be included in the count of pupils in the school district for the purposes of apportionments and allowances from the State Distributive School Account pursuant to NRS 387.121 to 387.126, inclusive, unless the pupil is exempt from compulsory attendance pursuant to NRS 392.070. A charter school is entitled to receive its proportionate share of any other money available from federal, state or local sources that the school or the pupils who are enrolled in the school are eligible to receive. If a charter school receives special education program units directly from this State, the amount of money for special education that the school district pays to the charter school may be reduced proportionately by the amount of money the charter school received from this State for that purpose.

2. All money received by the charter school from this State or from the board of trustees of a school district must be deposited in a bank, credit union or other financial institution in this State. The governing body of a charter school may negotiate with the board of trustees of the school district and the State Board for additional money to pay for services which the governing body wishes to offer.

3. Upon completion of ~~[a]~~ *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 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, 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.

Sec. 4. NRS 391.512 is hereby amended to read as follows:

391.512 1. There are hereby created the Southern Nevada Regional Training Program, the Western Nevada Regional Training Program, the Northeastern Nevada Regional Training Program and the Northwestern Nevada Regional Training Program. The governing body of each regional training program shall establish and operate a:

(a) Regional training program for the professional development of teachers and administrators.

(b) Nevada Early Literacy Intervention Program through the regional training program established pursuant to paragraph (a).

2. Except as otherwise provided in subsection 6, the Southern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by *each* school ~~[districts]~~ *district, each charter school, regardless of the sponsor, and each university school for profoundly gifted pupils located* in:

(a) Clark County;

(b) Esmeralda County;

(c) Lincoln County; and

(d) Nye County.

3. Except as otherwise provided in subsection 6, the Western Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by *each* school ~~[districts]~~ *district, each*

charter school, regardless of the sponsor, and each university school for profoundly gifted pupils located in:

(a) Carson City;

(b) Churchill County;

(c) Douglas County;

(d) Lyon County; and

(e) Mineral County.

4. Except as otherwise provided in subsection 6, the Northeastern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by *each* school ~~[districts]~~ *district, each charter school, regardless of the sponsor, and each university school for profoundly gifted pupils located* in:

(a) Elko County;

(b) Eureka County;

(c) Lander County;

(d) Humboldt County; and

(e) White Pine County.

5. Except as otherwise provided in subsection 6, the Northwestern Nevada Regional Training Program must primarily provide services to teachers and administrators who are employed by *each* school ~~[districts]~~ *district, each charter school, regardless of the sponsor, and each university school for profoundly gifted pupils located* in:

(a) Pershing County;

(b) Storey County; and

(c) Washoe County.

6. Each regional training program shall, when practicable, make reasonable accommodations for the attendance of teachers and administrators who are employed by school districts outside the primary jurisdiction of the regional training program.

7. The board of trustees of the:

(a) Clark County School District shall serve as the fiscal agent for the Southern Nevada Regional Training Program.

(b) Douglas County School District shall serve as the fiscal agent for the Western Nevada Regional Training Program.

(c) Elko County School District shall serve as the fiscal agent for the Northeastern Nevada Regional Training Program.

(d) Washoe County School District shall serve as the fiscal agent for the Northwestern Nevada Regional Training Program.

➥ As fiscal agent, each school district is responsible for the payment, collection and holding of all money received from this State for the maintenance and support of the regional training program and Nevada Early Intervention Program established and operated by the applicable governing body.

Sec. 5. NRS 391.520 is hereby amended to read as follows:

391.520 1. The Statewide Council shall meet not less than four times per year.

2. The Statewide Council shall:

(a) Adopt uniform standards for use by the governing body of each regional training program in the review and approval by the governing body of the training to be provided by the regional training program pursuant to NRS 391.540 and 391.544. The standards must ensure that the training provided by the regional training programs includes activities set forth in 20 U.S.C. § 7801(34), as appropriate for the type of training offered, is of high quality and is effective in addressing the training programs specified in subsection 1 of NRS 391.544.

(b) Coordinate the dissemination of information to school districts, *charter schools, university schools for profoundly gifted pupils,* administrators and teachers concerning the training, programs and services provided by the regional training programs.

(c) Disseminate information to the regional training programs concerning innovative and effective methods to provide professional development.

(d) Conduct long-range planning concerning the professional development needs of teachers and administrators employed in this State.

(e) Adopt uniform procedures for use by the governing body of each regional training program to report the evaluation conducted pursuant to NRS 391.552.

3. The Statewide Council may:

(a) Accept gifts and grants from any source for use by the Statewide Council in carrying out its duties pursuant to this section and accept gifts and grants from any source on behalf of one or more regional training programs to assist with the training provided pursuant to NRS 391.544; and

(b) Comply with applicable federal laws and regulations governing the provision of federal grants to assist the Statewide Council in carrying out its duties pursuant to this section and comply with applicable federal laws and regulations governing the provision of federal grants to assist with the training provided pursuant to NRS 391.544, including, without limitation, providing money from the budget of the Statewide Council to match the money received from a federal grant.

Sec. 6. NRS 391.540 is hereby amended to read as follows:

391.540 1. The governing body of each regional training program shall:

(a) Adopt a training model, taking into consideration other model programs, including, without limitation, the program used by the Geographic Alliance in Nevada.

(b) Assess the training needs of teachers and administrators who are employed by the school districts , *charter schools, regardless of the sponsor, and university schools for profoundly gifted pupils* within the primary jurisdiction of the regional training program and adopt priorities of training for the program based upon the assessment of needs. The board of trustees of

each such school district , *the governing body of each such charter school and the governing body of each such university school for profoundly gifted pupils* may submit recommendations to the ~~[appropriate]~~ governing body *of the appropriate regional training program* for the types of training that should be offered by the regional training program.

(c) In making the assessment required by paragraph (b), review the plans to improve the achievement of pupils prepared pursuant to NRS 385.348 by the school districts within the primary jurisdiction of the regional training program and, as deemed necessary by the governing body, review the plans to improve the achievement of pupils prepared pursuant to NRS 385.357 for individual schools within the primary jurisdiction of the regional training program.

(d) Prepare a 5-year plan for the regional training program, which includes, without limitation:

(1) An assessment of the training needs of teachers and administrators who are employed by the school districts , *charter schools, regardless of the sponsor, and university schools for profoundly gifted pupils* within the primary jurisdiction of the regional training program; and

(2) Specific details of the training that will be offered by the regional training program for the first 2 years covered by the plan.

(e) Review the 5-year plan on an annual basis and make revisions to the plan as are necessary to serve the training needs of teachers and administrators employed by the school districts , *charter schools, regardless of the sponsor, and university schools for profoundly gifted pupils* within the primary jurisdiction of the regional training program.

2. The Department, the Nevada System of Higher Education , ~~[and]~~ the board of trustees of a school district , *the governing body of a charter school and the governing body of a university school for profoundly gifted pupils* may request the governing body of the regional training program that serves the school district , *charter school or university school for profoundly gifted pupils* to ~~[provide]~~ *:*

(a) Provide training ~~[, participate]~~ *;*

(b) Participate in a program *;* or ~~[otherwise]~~

(c) Otherwise perform a service ,

➥ that is in addition to the duties of the regional training program that are set forth in the plan adopted pursuant to this section or otherwise required by statute.

3. An entity may not represent that a regional training program will perform certain duties or otherwise obligate the regional training program as part of an application by that entity for a grant unless the entity has first obtained the written confirmation of the governing body of the regional training program to perform those duties or obligations.

4. The governing body of a regional training program may, but is not required to, grant a request pursuant to ~~[this subsection.]~~ *subsection 2.*

Sec. 7. NRS 391.544 is hereby amended to read as follows:

391.544 1. Based upon the assessment of needs for training within the region and priorities of training adopted by the governing body pursuant to NRS 391.540, each regional training program must provide:

(a) Training for teachers in the standards established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520.

(b) Through the Nevada Early Literacy Intervention Program established for the regional training program, training for teachers who teach kindergarten and grades 1, 2 or 3 on methods to teach fundamental reading skills, including, without limitation:

(1) Phonemic awareness;

(2) Phonics;

(3) Vocabulary;

(4) Fluency;

(5) Comprehension; and

(6) Motivation.

(c) At least one of the following types of training:

(1) Training for teachers and school administrators in the assessment and measurement of pupil achievement and the effective methods to analyze the test results and scores of pupils to improve the achievement and proficiency of pupils.

(2) Training for teachers in specific content areas to enable the teachers to provide a higher level of instruction in their respective fields of teaching. Such training must include instruction in effective methods to teach in a content area provided by teachers who are considered masters in that content area.

(3) In addition to the training provided pursuant to paragraph (b) of subsection 1, training for teachers in the methods to teach basic skills to pupils, such as providing instruction in reading with the use of phonics and providing instruction in basic skills of mathematics computation.

2. The training required pursuant to subsection 1 must:

(a) Include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

(b) Include appropriate procedures to ensure follow-up training for teachers and administrators who have received training through the program.

(c) Incorporate training that addresses the educational needs of:

(1) Pupils with disabilities who participate in programs of special education; and

(2) Pupils who are limited English proficient.

3. The governing body of each regional training program shall prepare and maintain a list that identifies programs for the professional development of teachers and administrators that successfully incorporate:

(a) The standards of content and performance established by the Council to Establish Academic Standards for Public Schools pursuant to NRS 389.520;

(b) Fundamental reading skills; and

(c) Other training listed in subsection 1.

➥ The governing body shall provide a copy of the list on an annual basis to *the* school districts , *charter schools, regardless of the sponsor, and university schools for profoundly gifted pupils* for dissemination to teachers and administrators.

4. A regional training program may include model classrooms that demonstrate the use of educational technology for teaching and learning.

5. A regional training program may contract with the board of trustees of a school district , *the governing body of a charter school or the governing body of a university school for profoundly gifted pupils* that is served by the regional training program as set forth in NRS 391.512 to provide professional development to the teachers and administrators employed by the school district , *charter school or university school for profoundly gifted pupils, as applicable,* that is in addition to the training required by this section. Any training provided pursuant to this subsection must include the activities set forth in 20 U.S.C. § 7801(34), as deemed appropriate by the governing body for the type of training offered.

6. To the extent money is available from legislative appropriation or otherwise, a regional training program may provide training to paraprofessionals.

Sec. 8. This act becomes effective on July 1, 2009.

Senator Washington moved the adoption of the amendment.

Remarks by Senator Washington.

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

Amendment No. 135 to Senate Bill No. 164 revises the provision that the sponsor of a charter school may appoint one person to the governing body of the charter school to reflect that the sponsor may nominate one person to the governing body of the charter school only at the request of the governing body of the charter school.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 170.

Bill read second time.

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

Amendment No. 128.

"SUMMARY—Revises provisions governing payment for work performed for the operation and maintenance of ditches. (BDR 48-1059)"

"AN ACT relating to conduits; authorizing an entity that owns, operates or maintains a ditch to recover from certain persons the reasonable expense of any work performed by the entity that is necessary for the operation and maintenance of the ditch; providing for the imposition of a lien against any property to which water is delivered through the ditch; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill authorizes an entity that owns, operates or maintains a ditch to perform any work necessary for the maintenance and operation of the ditch and to recover the reasonable expense of that work from each person who receives water through the ditch. *Section 1 specifies that any such work includes, without limitation, labor and any accounting, legal or other administrative service performed for the maintenance and operation of the ditch.* Section 2 of this bill provides for the imposition of a lien against any property to which water is delivered through the ditch if a person who receives water through the ditch fails to pay his proportionate share of the expense of maintenance or operation. Section 3 of this bill provides that each person or entity constructing, operating or maintaining a ditch or flume has a right to the full flow of water through the ditch or flume, regardless of whether the water is for use by the person or entity or for delivery to others.

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

Section 1. NRS 536.040 is hereby amended to read as follows:

536.040 *1.* In all cases where ~~[ditches are]~~ *a ditch is* owned by two or more persons, and one or more of ~~[such]~~ *those* persons ~~[shall fail]~~ *fails* or ~~[neglect]~~ *neglects* to do a proportionate share of the work necessary for the ~~[proper]~~ maintenance and operation of ~~[such]~~ *the* ditch , ~~[or ditches,]~~ or to construct suitable headgates or other devices at the point where water is diverted from the main ditch, ~~[such]~~ *the* owner or owners desiring the performance of ~~[such]~~ *the* work may, after giving 10 days' written notice to ~~[such]~~ *the* other owner or owners who have failed to perform ~~[such]~~ *the* proportionate share of the work necessary for the operation and maintenance of ~~[such]~~ *the* ditch , ~~[or ditches,]~~ perform ~~[such]~~ *the* share of the work, and recover therefor from ~~[such]~~ *each* person ~~[or persons]~~ in default the reasonable expense of ~~[such]~~ *the* work. *In all cases where a ditch is owned, operated or maintained by an entity, the entity may perform any work necessary for the maintenance and operation of the ditch and recover therefor from each person receiving water through the ditch his proportionate share of the reasonable expense of the work.*

2. As used in this section, "work" includes, without limitation, labor and any accounting, legal or other administrative service performed for the maintenance and operation of a ditch specified in subsection 1.

Sec. 2. NRS 536.050 is hereby amended to read as follows:

536.050 Upon the failure of any co-owner *or person receiving water through a ditch* to pay his proportionate share of such expense, as mentioned in NRS 536.040, within 30 days after receiving a statement of the same as performed by his co-owner or co-owners ~~[, such]~~ *or by the entity owning, operating or maintaining the ditch, each* person or ~~[persons]~~ *entity* so performing ~~[such]~~ *the* labor *or other work* may secure payment of ~~[such]~~ *the* claim by filing an itemized and sworn statement thereof, setting forth the date of the performance and the nature of the labor *or other work* so performed, with the county clerk of the county wherein the ditch is situated, and when so

filed it [~~shall constitute~~] *constitutes* a valid lien against the interest of [~~such~~] *each* person [~~or persons~~] in default [~~, which~~] *and against any property to which water is delivered through the ditch. The* lien may be established and enforced in the same manner as provided by law for the enforcement of mechanics' liens.

Sec. 3. NRS 536.080 is hereby amended to read as follows:

536.080 [~~The~~] *Each* person or [~~persons~~] *entity* constructing *, operating* or maintaining a ditch or flume under the provisions of NRS 536.060 to 536.090, inclusive, [~~shall have~~] *has* the undisturbed right and privilege of flowing water through the same, to the full extent of its capacity, for mining, milling, manufacturing, agricultural and other domestic purposes, *whether for use by the person or entity or for delivery to others,* and to use the same at any necessary and convenient point or points along the line thereof *,* [~~;~~] but nothing contained in NRS 536.060 to 536.090, inclusive, shall be so construed as to interfere with any prior or existing claim or right.

Sec. 4. This act becomes effective on July 1, 2009.

Senator Parks moved the adoption of the amendment.

Remarks by Senator Parks.

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

Amendment No. 128 to Senate Bill No. 170 deletes the word "proper" when referring to the maintenance and operation of a ditch. The deletion makes the language in NRS and language in the bill consistent. Additionally, the amendment provides a definition of the word "work" to include, without limitation, labor and any accounting, legal or other administrative service performed for the maintenance and operation of the ditch.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 174.

Bill read second time and ordered to third reading.

Senate Bill No. 204.

Bill read second time.

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

Amendment No. 172.

"SUMMARY—Revises provisions governing notice of an application for a permit to appropriate water. (BDR 48-1086)"

"AN ACT relating to water; revising provisions governing notice of an application for a permit to appropriate water; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law requires the State Engineer to publish notice of an application for a permit to appropriate water in the county where the water is sought to be appropriated. (NRS 533.360) This bill requires the State Engineer to publish the notice of the application *: (1)* in [~~: (1)~~] *a newspaper of general circulation in* the county in which the water is sought to be appropriated; and

(2) ~~[each other county within the area of hydrologic effect. In addition, this bill requires certain applicants for a permit for a proposed well to mail a copy of the notice of application to certain owners of real property that is within 2,500 feet of the boundary of the parcel of real property that contains the proposed well.]~~ *on the Internet website of the State Engineer, unless the State Engineer is unable to do so because of technical problems relating to the operation or maintenance of the website.*

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

Section 1. NRS 533.360 is hereby amended to read as follows:

533.360 1. Except as otherwise provided in subsection 4, NRS 533.345 and subsection 5 of NRS 533.370, when an application is filed in compliance with this chapter, the State Engineer shall, within 30 days, publish or cause to be published ~~[once a week for 4 consecutive weeks in a newspaper of general circulation and printed and published in the county where the water is sought to be appropriated,]~~ a notice of the application . ~~[which sets]~~ *The notice must:*

(a) Be published once a week for 4 consecutive weeks in ~~[:~~

~~*(1) A]*~~ *a newspaper of general circulation that is printed and published in the county in which the water is sought to be appropriated* ~~*; [*~~.

~~*(2) A newspaper of general circulation that is printed and published in each other county within the area of hydrologic effect.]*~~

(b) Be published on the Internet website of the State Engineer for 4 consecutive weeks at the same time the notice is published pursuant to paragraph (a), unless the State Engineer is unable to do so because of technical problems relating to the operation or maintenance of the website; and

(c) Set forth:

~~[(a)]~~ *(1)* That the application has been filed.

~~[(b)]~~ *(2)* The date of the filing.

~~[(c)]~~ *(3)* The name and address of the applicant.

~~[(d)]~~ *(4)* The name of the source from which the appropriation is to be made.

~~[(e)]~~ *(5)* The location of the place of diversion, described by legal subdivision or metes and bounds and by a physical description of that place of diversion.

~~[(f)]~~ *(6)* The purpose for which the water is to be appropriated.

~~[➥ The publisher shall add thereto the]~~

(7) The date of the first publication and the date of the last publication ~~[.]~~ *of the notice.*

2. Except as otherwise provided in subsection 4, proof of publication must be filed within 30 days after the final day of publication. The State Engineer shall pay for the publication from the application fee. If the application is cancelled for any reason before publication, the State Engineer shall return to the applicant that portion of the application fee collected for publication.

3. If the application is for a proposed well:

(a) For municipal, quasi-municipal or industrial use; and

(b) Whose reasonably expected rate of diversion is one-half cubic foot per second or more,

➥ the applicant shall mail a copy of the notice of application to each owner of real property containing a domestic well that is within 2,500 feet of ~~*[the boundary of the parcel of real property that contains]*~~ the proposed well, to his address as shown in the latest records of the county assessor. If there are not more than six such wells, ~~*[owners,]*~~ notices must be sent to each owner by certified mail, return receipt requested. If there are more than six such wells, ~~*[owners,]*~~ at least six notices must be sent to owners by certified mail, return receipt requested. The return receipts from these notices must be filed with the State Engineer before he may consider the application.

4. The provisions of this section do not apply to an environmental permit.

5. The inability of the State Engineer to publish notice on the Internet website of the State Engineer of an application or provide proof of publication of the notice pursuant to paragraph (b) of subsection 1 as a result of technical problems with the website does not invalidate a notice of the application that satisfies the other requirements of this section.

Sec. 2. This act becomes effective on July 1, 2009.

Senator Carlton moved the adoption of the amendment.

Remarks by Senator Parks.

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

Amendment No. 172 to Senate Bill No. 204 deletes the requirement to publish a notice of application for a permit to appropriate water in newspapers in other counties within the area of hydrologic effect and adds language requiring the notice of application to be posted on the State Engineer's website for four consecutive weeks. This amendment also states that if the State Engineer is unable to either post a notice as a result of technical problems or prove that a posting occurred on its website, it shall not be deemed to be a violation of the provisions of this chapter.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 217.

Bill read second time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 186.

"SUMMARY—Enacts provisions relating to the Department of Motor Vehicles and registration under the federal Military Selective Service Act. (BDR 43-119)"

"AN ACT relating to the Department of Motor Vehicles; providing that certain applicants for drivers' licenses, instruction permits, identification cards and commercial drivers' licenses ~~[must]~~ *may* authorize the Department of Motor Vehicles to forward to the Selective Service System personal

information necessary for registration with the System; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Under existing law, the Department of Motor Vehicles is prohibited from releasing personal information from a file or record relating to a driver's license or identification card except under certain circumstances. (NRS 481.063) Existing federal law requires every male citizen of the United States and every other male residing in the United States who is at least 18 years of age but less than 26 years of age to register with the Selective Service System. (50 U.S.C. App. § 453) Sections 3-5 of this bill require the Department of Motor Vehicles to forward to the Selective Service System the personal information necessary for registration with the Selective Service System of any applicant for a driver's license, instruction permit, restricted license, special restricted license, identification card or commercial driver's license, or for a duplicate or substitute of such a license or permit, or for the renewal or reinstatement of such a license or permit, who is required to register with the Selective Service System ~~[.]~~ *and who indicates by checking a box on the application that he wishes the Department to forward such information.* This bill also requires the Department of Motor Vehicles to include on the application for any such license or permit a notice that ~~[submission of the application by a person required to register]~~ *registration* with the Selective Service System ~~[serves as an indication that the applicant has either already registered with the Selective Service System or authorizes the Department of Motor Vehicles to submit the necessary personal information to the Selective Service System.]~~ *in compliance with federal law maintains the eligibility of the applicant for various federal benefits.*

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

Section 1. NRS 481.063 is hereby amended to read as follows:

481.063 1. The Director may charge and collect reasonable fees for official publications of the Department and from persons making use of files and records of the Department or its various divisions for a private purpose. All money so collected must be deposited in the State Treasury for credit to the Motor Vehicle Fund.

2. Except as otherwise provided in subsection 5, the Director may release personal information, except a photograph, from a file or record relating to the driver's license, identification card, or title or registration of a vehicle of a person if the requester submits a written release from the person who holds a lien on the vehicle, or an agent of that person, or the person about whom the information is requested which is dated not more than 90 days before the date of the request. The written release must be in a form required by the Director.

3. Except as otherwise provided in subsection 2, the Director shall not release to any person who is not a representative of the Division of Welfare and Supportive Services of the Department of Health and Human Services or an officer, employee or agent of a law enforcement agency, an agent of the

public defender's office or an agency of a local government which collects fines imposed for parking violations, who is not conducting an investigation pursuant to NRS 253.0415, 253.044 or 253.220, who is not authorized to transact insurance pursuant to chapter 680A of NRS or who is not licensed as a private investigator pursuant to chapter 648 of NRS and conducting an investigation of an insurance claim:

(a) A list which includes license plate numbers combined with any other information in the records or files of the Department;

(b) The social security number of any person, if it is requested to facilitate the solicitation of that person to purchase a product or service; or

(c) The name, address, telephone number or any other personally identifiable information if the information is requested by the presentation of a license plate number.

➥ When such personally identifiable information is requested of a law enforcement agency by the presentation of a license plate number, the law enforcement agency shall conduct an investigation regarding the person about whom information is being requested or, as soon as practicable, provide the requester with the requested information if the requester officially reports that the motor vehicle bearing that license plate was used in a violation of NRS 205.240, 205.345, 205.380 or 205.445.

4. Except as otherwise provided in subsections 2 and 5, *and sections 3, 4 and 5 of this act,* the Director shall not release any personal information from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

5. Except as otherwise provided in paragraph (a) and subsection 6, if a person or governmental entity provides a description of the information requested and its proposed use and signs an affidavit to that effect, the Director may release any personal information, except a photograph, from a file or record relating to a driver's license, identification card, or title or registration of a vehicle for use:

(a) By any governmental entity, including, but not limited to, any court or law enforcement agency, in carrying out its functions, or any person acting on behalf of a federal, state or local governmental agency in carrying out its functions. The personal information may include a photograph from a file or record relating to a driver's license, identification card, or title or registration of a vehicle.

(b) In connection with any civil, criminal, administrative or arbitration proceeding before any federal or state court, regulatory body, board, commission or agency, including, but not limited to, use for service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal or state court.

(c) In connection with matters relating to:

(1) The safety of drivers of motor vehicles;

(2) Safety and thefts of motor vehicles;

(3) Emissions from motor vehicles;

(4) Alterations of products related to motor vehicles;

(5) An advisory notice relating to a motor vehicle or the recall of a motor vehicle;

(6) Monitoring the performance of motor vehicles;

(7) Parts or accessories of motor vehicles;

(8) Dealers of motor vehicles; or

(9) Removal of nonowner records from the original records of motor vehicle manufacturers.

(d) By any insurer, self-insurer or organization that provides assistance or support to an insurer or self-insurer or its agents, employees or contractors, in connection with activities relating to the rating, underwriting or investigation of claims or the prevention of fraud.

(e) In providing notice to the owners of vehicles that have been towed, repossessed or impounded.

(f) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license who is employed by or has applied for employment with the employer.

(g) By a private investigator, private patrolman or security consultant who is licensed pursuant to chapter 648 of NRS, for any use permitted pursuant to this section.

(h) By a reporter or editorial employee who is employed by or affiliated with any newspaper, press association or commercially operated, federally licensed radio or television station for a journalistic purpose. The Department may not make any inquiries regarding the use of or reason for the information requested other than whether the information will be used for a journalistic purpose.

(i) In connection with an investigation conducted pursuant to NRS 253.0415, 253.044 or 253.220.

(j) In activities relating to research and the production of statistical reports, if the personal information will not be published or otherwise redisclosed, or used to contact any person.

(k) In the bulk distribution of surveys, marketing material or solicitations, if the Director has adopted policies and procedures to ensure that:

(1) The information will be used or sold only for use in the bulk distribution of surveys, marketing material or solicitations;

(2) Each person about whom the information is requested has clearly been provided with an opportunity to authorize such a use; and

(3) If the person about whom the information is requested does not authorize such a use, the bulk distribution will not be directed toward that person.

6. Except as otherwise provided in paragraph (j) of subsection 5, a person who requests and receives personal information may sell or disclose that information only for a use permitted pursuant to subsection 5. Such a person shall keep and maintain for 5 years a record of:

(a) Each person to whom the information is provided; and

(b) The purpose for which that person will use the information.

➥ The record must be made available for examination by the Department at all reasonable times upon request.

7. Except as otherwise provided in subsection 2, the Director may deny any use of the files and records if he reasonably believes that the information taken may be used for an unwarranted invasion of a particular person's privacy.

8. Except as otherwise provided in NRS 485.316, the Director shall not allow any person to make use of information retrieved from the database created pursuant to NRS 485.313 for a private purpose and shall not in any other way release any information retrieved from that database.

9. The Director shall adopt such regulations as he deems necessary to carry out the purposes of this section. In addition, the Director shall, by regulation, establish a procedure whereby a person who is requesting personal information may establish an account with the Department to facilitate his ability to request information electronically or by written request if he has submitted to the Department proof of his employment or licensure, as applicable, and a signed and notarized affidavit acknowledging:

(a) That he has read and fully understands the current laws and regulations regarding the manner in which information from the Department's files and records may be obtained and the limited uses which are permitted;

(b) That he understands that any sale or disclosure of information so obtained must be in accordance with the provisions of this section;

(c) That he understands that a record will be maintained by the Department of any information he requests; and

(d) That he understands that a violation of the provisions of this section is a criminal offense.

10. It is unlawful for any person to:

(a) Make a false representation to obtain any information from the files or records of the Department.

(b) Knowingly obtain or disclose any information from the files or records of the Department for any use not permitted by the provisions of this chapter.

11. As used in this section, "personal information" means information that reveals the identity of a person, including, without limitation, his photograph, social security number, driver's license number, identification card number, name, address, telephone number or information regarding a medical condition or disability. The term does not include the zip code of a person when separate from his full address, information regarding vehicular accidents or driving violations in which he has been involved or other information otherwise affecting his status as a driver.

Sec. 2. Chapter 483 of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.

Sec. 3. *1. When applying for a driver's license, an instruction permit, a restricted license or a special restricted license or for a duplicate or the*

renewal or reinstatement of such a license or permit, a male applicant who is:

(a) A citizen of the United States or an immigrant; and

(b) At least 18 years of age but less than 26 years of age,

➥ ~~*[shall]*~~ *may authorize the Department to register him with the Selective Service System in compliance with section 3 of the Military Selective Service Act, 50 U.S.C. App. §§ 451 et seq., as amended.*

2. An application for a driver's license, an instruction permit, a restricted license or a special restricted license or for a duplicate or substitute or the renewal or reinstatement of such a license or permit must include a ~~*[notice that submission of the application to the Department by any applicant described in subsection 1 serves as an indication that the applicant has already registered with the Selective Service System or authorizes]*~~ *box which may be checked by an applicant described in subsection 1 to authorize the Department to submit the necessary personal information to the Selective Service System to register the applicant in compliance with federal law. The application must also inform the applicant that by registering with the Selective Service System in compliance with federal law, the applicant remains eligible for federal student loans, grants, benefits relating to job training, most federal jobs and, if applicable, citizenship in the United States.*

3. ~~*[The Department shall forward to the Selective Service System in an electronic format the necessary personal information of the applicants described in subsection 1.]*~~ *If an applicant indicates on his application that he wishes the Department to forward the necessary personal information to the Selective Service System, the Department shall forward that information to the Selective Service System in an electronic format.*

Sec. 4. *1. When applying for an identification card or for a duplicate or the renewal of such a card, a male applicant who is:*

(a) A citizen of the United States or an immigrant; and

(b) At least 18 years of age but less than 26 years of age,

➥ ~~*[shall]*~~ *may authorize the Department to register him with the Selective Service System in compliance with section 3 of the Military Selective Service Act, 50 U.S.C. App. §§ 451 et seq., as amended.*

2. An application for an identification card or for a duplicate or the renewal of such a card must include a ~~*[notice that submission of the application to the Department by any applicant described in subsection 1 serves as an indication that the applicant has already registered with the Selective Service System or authorizes]*~~ *box which may be checked by an applicant described in subsection 1 to authorize the Department to submit the necessary personal information to the Selective Service System to register the applicant in compliance with federal law. The application must also inform the applicant that by registering with the Selective Service System in compliance with federal law, the applicant remains eligible for federal student loans, grants, benefits relating to job training, most federal jobs and, if applicable, citizenship in the United States.*

3. ~~*[The Department shall forward to the Selective Service System in an electronic format the necessary personal information of the applicants described in subsection 1.]*~~ *If an applicant indicates on his application that he wishes the Department to forward the necessary personal information to the Selective Service System, the Department shall forward that information to the Selective Service System in an electronic format.*

Sec. 5. *1. When applying for a commercial driver's license or for a duplicate or the renewal or reinstatement of such a license, a male applicant who is:*

(a) A citizen of the United States or an immigrant; and

(b) At least 18 years of age but less than 26 years of age,

➥ *~~[shall]~~ may authorize the Department to register him with the Selective Service System in compliance with section 3 of the Military Selective Service Act, 50 U.S.C. App. §§ 451 et seq., as amended.*

2. An application for a commercial driver's license or for a duplicate or the renewal or reinstatement of such a license must include a ~~[notice that submission of the application to the Department by any applicant described in subsection 1 serves as an indication that the applicant has already registered with the Selective Service System or authorizes]~~ box which may be checked by an applicant described in subsection 1 to authorize the Department to submit the necessary personal information to the Selective Service System to register the applicant in compliance with federal law. The application must also inform the applicant that by registering with the Selective Service System in compliance with federal law, the applicant remains eligible for federal student loans, grants, benefits relating to job training, most federal jobs and, if applicable, citizenship in the United States.

3. ~~[The Department shall forward to the Selective Service System in an electronic format the necessary personal information of the applicants described in subsection 1.]~~ If an applicant indicates on his application that he wishes the Department to forward the necessary personal information to the Selective Service System, the Department shall forward that information to the Selective Service System in an electronic format.

Sec. 6. NRS 483.015 is hereby amended to read as follows:

483.015 Except as otherwise provided in NRS 483.330, the provisions of NRS 483.010 to 483.630, inclusive, *and section 3 of this act* apply only with respect to noncommercial drivers' licenses.

Sec. 7. NRS 483.020 is hereby amended to read as follows:

483.020 As used in NRS 483.010 to 483.630, inclusive, *and section 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 483.030 to 483.190, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 483.820 is hereby amended to read as follows:

483.820 1. A person who applies for an identification card in accordance with the provisions of NRS 483.810 to 483.890, inclusive, *and section 4 of this act* and who is not ineligible to receive an identification card pursuant to NRS 483.861, is entitled to receive an identification card if he is:

(a) A resident of this State and is 10 years of age or older and does not hold a valid driver's license or identification card from any state or jurisdiction; or

(b) A seasonal resident who does not hold a valid Nevada driver's license.

2. Except as otherwise provided in NRS 483.825, the Department shall charge and collect the following fees for the issuance of an original, duplicate or changed identification card:

An original or duplicate identification card issued to a person 65 years of age or older	$4
An original or duplicate identification card issued to a person under 18 years of age	3
A renewal of an identification card for a person under 18 years of age	3
An original or duplicate identification card issued to any other person	9

A renewal of an identification card for any person at least 18 years of age, but less than 65 years of age 9

A new photograph or change of name, or both 4

3. The Department shall not charge a fee for:

(a) An identification card issued to a person who has voluntarily surrendered his driver's license pursuant to NRS 483.420; or

(b) A renewal of an identification card for a person 65 years of age or older.

4. Except as otherwise provided in NRS 483.825, the increase in fees authorized in NRS 483.347 must be paid in addition to the fees charged pursuant to this section.

5. As used in this section, "photograph" has the meaning ascribed to it in NRS 483.125.

Sec. 9. NRS 483.902 is hereby amended to read as follows:

483.902 The provisions of NRS 483.900 to 483.940, inclusive, *and section 5 of this act* apply only with respect to commercial drivers' licenses.

Sec. 10. NRS 483.904 is hereby amended to read as follows:

483.904 As used in NRS 483.900 to 483.940, inclusive, *and section 5 of this act,* unless the context otherwise requires:

1. "Commercial driver's license" means a license issued to a person which authorizes him to drive a class or type of commercial motor vehicle.

2. "Commercial Driver's License Information System" means the information system maintained by the Secretary of Transportation pursuant to 49 U.S.C. § 31309 to serve as a clearinghouse for locating information relating to the licensing, identification and disqualification of operators of commercial motor vehicles.

3. "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

Sec. 11. The Department shall take all action necessary to ensure that the application form it uses for each license, permit and identification card described in sections 3, 4 and 5 of this act complies with the requirements of those sections on and after July 1, 2010.

Sec. 12. 1. This section and section 11 of this act become effective upon passage and approval.

2. Sections 1 to 10, inclusive, of this act become effective on July 1, 2010.

Senator Schneider moved the adoption of the amendment.

Remarks by Senator Schneider.

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

Amendment No. 186 to Senate Bill No. 217 specifies that certain male driver's license applicants may authorize NDOT to register them with the Selective Service System. The amendment also specifies that a box, which may be checked to authorize NDOT to submit the necessary personal information to the Selective Service System, be included on driver's license applications. Driver's license applications must also inform applicants that by registering with the Selective Service System, the applicant remains eligible for federal student loans, grants, benefits relating to job training, most federal jobs and citizenship.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 222.

Bill read second time and ordered to third reading.

Senate Bill No. 238.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 191.

"SUMMARY—Revises certain provisions relating to the restoration of civil rights for certain criminal offenders. (BDR 16-895)"

"AN ACT relating to criminal procedure; authorizing the State Board of Pardons Commissioners to adopt a policy to provide an expedited process ~~[for restoring]~~ *to take action, without holding a meeting, to restore* the civil rights of certain persons under certain circumstances; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law provides for the automatic restoration of certain civil rights after honorable discharge from probation or parole, release from prison or the sealing of records. (NRS 176A.850, 179.285, 213.090, 213.155, 213.157) Existing law also authorizes certain criminal offenders to apply to the State Board of Pardons Commissioners to have their civil rights restored. Existing law further provides for the Board to consider such applications at a meeting after providing notice to the district attorney, the district judge of the county where the person was convicted and, if requested, to each victim of a crime committed by the person whose application is being considered. (NRS 213.010, 213.020, 213.040) Section 1 of this bill authorizes the Board to adopt a policy to provide for an expedited process ~~[for restoring]~~ *to take action, without holding a meeting, to restore* the civil rights of certain persons under certain circumstances.

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

Section 1. Chapter 213 of NRS is hereby amended by adding thereto a new section to read as follows:

The Board may adopt a policy to provide an expedited process ~~[for restoring]~~ to take action, without holding a meeting, to restore the civil rights, in whole or in part, of a person who submits an application to the Board to have his civil rights restored if certain conditions are met, including, without limitation, that:

1. There is no objection from the court in which the judgment was rendered;

2. There is no objection from the district attorney of the county wherein the person was convicted; and

3. The Board has not received a written request for notice concerning a meeting to consider an application for clemency from a victim of a crime committed by the person.

Sec. 2. NRS 213.005 is hereby amended to read as follows:

213.005 As used in NRS 213.005 to 213.100, inclusive, *and section 1 of this act,* unless the context otherwise requires:

1. "Board" means the State Board of Pardons Commissioners.

2. "Secretary" means the Secretary of the Board.

3. "Victim" includes:

(a) A person, including a governmental entity, against whom a crime has been committed;

(b) A person who has been injured or killed as a direct result of the commission of a crime; or

(c) A relative of a person described in paragraph (a) or (b). For the purposes of this paragraph, a "relative" of a person includes:

(1) A spouse, parent, grandparent or stepparent;

(2) A natural born child, stepchild or adopted child;

(3) A grandchild, brother, sister, half brother or half sister; or

(4) A parent of a spouse.

Sec. 3. NRS 213.010 is hereby amended to read as follows:

213.010 1. The State Board of Pardons Commissioners consists of the Governor, the justices of the Supreme Court and the Attorney General.

2. Meetings of the Board for the purpose of considering applications for clemency may be held semiannually or oftener, on such dates as may be fixed by the Board.

3. ~~[The]~~ *Except as otherwise provided in a policy adopted pursuant to section 1 of this act, the* Board shall give written notice at least 15 days before a meeting to each victim of the crimes committed by each person whose application for clemency will be considered at the meeting, if the victim so requests in writing and provides his current address. If a current address is not provided, the Board may not be held responsible if the notice is not received by the victim. The victim may submit a written response to the Board at any time before the meeting. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received by the Board pursuant to this subsection is confidential.

Sec. 4. NRS 213.020 is hereby amended to read as follows:

213.020 1. Any person intending to apply to have a fine or forfeiture remitted, a punishment commuted, a pardon granted or his civil rights restored, or any person acting on his behalf, must submit an application to the Board, in accordance with the procedures established by the Secretary pursuant to NRS 213.017, specifying therein:

(a) The court in which the judgment was rendered;

(b) The amount of the fine or forfeiture, or the kind or character of punishment;

(c) The name of the person in whose favor the application is to be made;

(d) The particular grounds upon which the application will be based; and

(e) Any other information deemed relevant by the Secretary.

2. A person must not be required to pay a fee to have a fine or forfeiture remitted, a punishment commuted, a pardon granted or his civil rights restored pursuant to this section.

3. ~~[The]~~ *Except as otherwise provided in a policy adopted pursuant to section 1 of this act, the* Secretary shall submit notice of the date, time and location of the meeting to consider the application and one copy of the application to the district attorney and to the district judge of the county wherein the person was convicted. In cases of fines and forfeitures, notice of the date, time and location of the meeting to consider the application must also be served on the chairman of the board of county commissioners of the county wherein the person was convicted.

4. ~~[Notice]~~ *Except as otherwise provided in a policy adopted pursuant to section 1 of this act, notice* of the date, time and location of a meeting to consider an application pursuant to this section must be served upon the appropriate persons as required in this section at least 30 days before the presentation of the application, unless a member of the Board, for good cause, prescribes a shorter time.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

Amendment No. 191 to Senate Bill No. 238 clarifies that the policy adopted by the Pardon's Board is one that would provide for an expedited process to restore a person's civil rights without necessitating a meeting of the Board.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 240.

Bill read second time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 200.

"SUMMARY—~~[Limits]~~ *Provides for the evaluation and establishment of* the maximum speed on certain portions of State Route 159. (BDR 43-1072)"

"AN ACT relating to highways; ~~[limiting]~~ *providing for the evaluation and establishment of* the maximum speed on certain portions of State Route 159; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

This bill establishes the State Route 159 *Safety* Speed ~~[Reduction]~~ Zone to ~~[limit vehicular traffic to not more than 45 miles per hour on any portion]~~ *provide for the evaluation and establishment of the maximum speed on portions* of State Route 159 that: (1) ~~[is]~~ *are* within the Red Rock Canyon National Conservation Area; (2) ~~[abuts or is]~~ *abut or are* immediately

adjacent to the Red Rock Canyon National Conservation Area; or (3) ~~[has]~~ *have* been designated as a Scenic Byway or State Scenic Byway.

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

Section 1. The Legislature hereby finds and declares that:

1. Because of the unique character of the Red Rock Canyon National Conservation Area, restrictions on the maximum speed for vehicular traffic in and around the Red Rock Canyon National Conservation Area are necessary for:

(a) The protection of the natural environment in and around the Red Rock Canyon National Conservation Area; and

(b) The safety and protection of the residents and visitors who enjoy the scenic beauty and recreational opportunities in and around the Red Rock Canyon National Conservation Area.

2. The enactment of this act is not intended to encourage the imposition of similar restrictions on other designated highways in this State.

Sec. 2. Chapter 484 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Route 159 Safety Speed ~~[Reduction]~~ Zone is hereby established.

2. Within the State Route 159 Safety Speed ~~[Reduction]~~ Zone, the Department of Transportation, in cooperation with other governmental entities whose jurisdiction includes this area, shall ensure that:

(a) The maximum speed that is allowed for vehicular traffic ~~[is]~~ will be set by the Director of the Department of Transportation at a level which ~~[does not exceed 45 miles per hour; and]~~ takes into consideration the safety and protection of the residents of and visitors to the Red Rock Canyon National Conservation Area. In setting that maximum speed, the Director of the Department of Transportation shall consider, without limitation, the following factors:

(1) Activity of bicycles and pedestrians in the area.

(2) Protection of the natural environment.

(3) History of accidents and crashes in the area.

(4) Recreational activities conducted in the area.

(5) The evaluation and use of measures of traffic calming which will support the maximum speed that is set.

(6) The ability of law enforcement agencies to enforce effectively the maximum speed that is set.

(b) Adequate signage or other forms of notice are ~~[posted and maintained to advise motorists of that maximum allowable speed.]~~ evaluated and installed to support and enhance the maximum speed that is set by the Director of the Department of Transportation, as described in paragraph (a).

3. The State Route 159 Safety Speed ~~[Reduction]~~ Zone consists of:

(a) Any portion of State Route 159 that is within the Red Rock Canyon National Conservation Area;

(b) Any portion of State Route 159 that abuts or is immediately adjacent to the Red Rock Canyon National Conservation Area; and

(c) Any portion of State Route 159 that has been designated as a Scenic Byway or State Scenic Byway.

4. As used in this section ~~[,]~~ :

(a) "Scenic Byway" and "State Scenic Byway" have the meanings ascribed to them in the National Scenic Byways Program, as issued by the Federal Highway Administration in 60 Federal Register 26,759 on May 18, 1995.

(b) "Traffic calming" means a combination of measures and techniques intended to:

(1) Reduce vehicular speeds;

(2) Promote safe and pleasant conditions for motorists, bicyclists, pedestrians and residents;

(3) Improve the environment and usability of roadways;

(4) Improve real and perceived safety for nonmotorized traffic; or

(5) Any combination of subparagraphs (1) to (4), inclusive.

Sec. 3. 1. On or before February 1, 2011, the Director of the Department of Transportation shall submit a report on the effectiveness of the State Route 159 Safety Speed Zone and any recommendations for legislation to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature.

2. As used in this section, "State Route 159 Safety Speed Zone" means the zone established pursuant to section 2 of this act.

~~[Sec. 3.]~~ *Sec. 4.* This act becomes effective on July 1, 2009.

Senator Breeden moved the adoption of the amendment.

Remarks by Senator Breeden.

Senator Breeden requested that her remarks be entered in the Journal.

Amendment No. 200 to Senate Bill No. 240 changes the name "State Route 159 Speed Reduction Zone" to "State Route 159 Safety Speed Zone." The amendment also specifies that the speed limit in this Zone will be set by the Director of NDOT at a level that takes into consideration the safety and protection of visitors to Red Rock Canyon.

In setting the speed limit on State Route 159, the Director of NDOT must consider: pedestrian and bicycle activity in the area, protection of the natural environment, accident history in the area, recreational activities conducted in the area, the evaluation and use of traffic calming measures, which will support the speed limit, and the ability of law enforcement to effectively enforce the speed limit.

The amendment requires that signage and other notices be evaluated and installed to support the speed limit set for State Route 159.

Lastly, the amendment requires the Director of NDOT to submit a report to the Legislature before the start of the 2011 Session on the effectiveness of the State Route 159 Safety Speed Zone with any recommendations.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 244.

Bill read second time.

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

Amendment No. 169.

"SUMMARY—Revises provisions governing automated external defibrillators. (BDR 40-277)"

"AN ACT relating to public health; requiring the Health Division of the Department of Health and Human Services, within the limitations of available funding, to establish and maintain a database of certain owners of automated external defibrillators for use in an emergency; providing for the registration of automated external defibrillators with the Health Division; ~~[requiring]~~ *authorizing* all public schools in this State to acquire automated external defibrillators under certain circumstances; providing for the placement of automated external defibrillators in medical facilities and health clubs in this State; providing a civil penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 3 of this bill: (1) requires the Health Division of the Department of Health and Human Services to establish and maintain, within the limitations of available funding, a database containing certain information concerning automated external defibrillators in this State and to make the information in the database available to each agency and facility that employs an emergency medical dispatcher in this State; (2) authorizes an emergency medical dispatcher to disclose the information in the database to any person for the purpose of providing emergency medical care; (3) requires a manufacturer that sells an automated external defibrillator for commercial use in this State to provide certain information to the purchaser and the Health Division; (4) authorizes the owner of an automated external defibrillator in this State to register the defibrillator with the Health Division; and (5) provides for the imposition of civil penalties against manufacturers for violations. Section 4 of this bill ~~[requires]~~ *authorizes* the board of trustees of each school district in this State, to the extent that money is available, to provide for the placement of automated external defibrillators in certain locations. Section 4 also provides for the placement of automated external defibrillators in medical facilities and health clubs in this State.

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, 3 and 4 of this act.

Sec. 2. *As used in NRS 450B.600 and sections 2, 3 and 4 of this act, unless the context otherwise requires, "automated external defibrillator" or "defibrillator" means a medical device that:*

1. Has been approved by the United States Food and Drug Administration;

2. Is capable of recognizing the presence or absence of ventricular fibrillation and rapid ventricular tachycardia in a patient;

3. Is capable of determining, without intervention by the operator of the device, whether defibrillation should be performed on a patient;

4. Upon determining that defibrillation should be performed on a patient, automatically charges and requests delivery of an electrical impulse to the patient's heart; and

5. Upon appropriate action by the operator of the device, delivers an appropriate electrical impulse to the patient's heart.

Sec. 3. *1. The Health Division shall:*

(a) Within the limitations of available funding, establish and maintain a database containing:

(1) The name and address of each person who owns an automated external defibrillator for commercial use in this State;

(2) If the defibrillator has been registered with the Health Division pursuant to subsection 4, the name, street address and telephone number of the business or organization that has placed the defibrillator for use on its premises, and the specific location at which the defibrillator is stored; and

(3) If the defibrillator has been registered with the Health Division pursuant to subsection 5, the information concerning the defibrillator that was required for registration by the Health Division.

(b) Make the information in the database available to each agency and facility that employs an emergency medical dispatcher in this State.

(c) Apply for and accept any gifts, grants or donations to establish and maintain the database.

2. An emergency medical dispatcher may disclose the information in the database to any person for the purpose of providing emergency medical care.

3. A manufacturer that sells an automated external defibrillator for commercial use in this State shall:

(a) Notify the purchaser in writing of the opportunity to register the defibrillator pursuant to subsection 4;

(b) On or before January 10, April 10, July 10 and October 10 of each year, notify the Health Division of the name and address of each person who purchased such a defibrillator from the manufacturer during the immediately preceding 3 calendar months; and

(c) Provide to each person who purchases such a defibrillator from the manufacturer information regarding the installation, use, maintenance and operation of the defibrillator and any related training that is available.

4. A person who purchases an automated external defibrillator for commercial use in this State may register the defibrillator with the Health Division by providing the Health Division with his name, street address and telephone number, the name, street address and telephone number of the business or organization on whose premises the defibrillator will be placed for use, and the specific location at which the defibrillator will be stored.

5. A person who owns an automated external defibrillator for use in a private residence may register the defibrillator with the Health Division by

providing such information concerning the defibrillator as required by the Health Division.

6. The Health Division may impose a civil penalty upon a manufacturer of not more than $500 for each violation of this section by the manufacturer. All money collected from the imposition of a civil penalty must be used for the maintenance of the database established pursuant to subsection 1.

Sec. 4. *1. Except as otherwise provided in NRS 450B.600, the board of trustees of each school district in this State, to the extent that money is available, ~~[shall]~~ may provide for the placement of an automated external defibrillator in each public school in the school district and at each athletic facility maintained by the school district at a location that is separate from a public school. Each defibrillator must be appropriate for use on children and adults and be limited to use on school property and at school events. The board of trustees may accept:*

(a) The donation of a defibrillator that complies with the standards established by the United States Food and Drug Administration; and

(b) Gifts, grants and donations for use in obtaining, inspecting and maintaining a defibrillator.

2. Each medical facility and health club in this State may provide for the placement of an automated external defibrillator in a central location at the medical facility or health club.

3. Each school district, medical facility and health club that provides for the placement of one or more automated external defibrillators pursuant to this section shall:

(a) Ensure that each defibrillator is inspected and maintained on a regular basis; and

(b) Require any employee who will use a defibrillator to complete the training requirements of a course in basic emergency care of a person in cardiac arrest that includes training in the operation and use of an automated external defibrillator and is conducted in accordance with the standards of the American Heart Association, the American National Red Cross or any similar organization.

4. As used in this section:

(a) "Health club" has the meaning ascribed to it in NRS 598.9415.

(b) "Medical facility" means:

(1) A facility for hospice care as defined in NRS 449.0033;

(2) A facility for intermediate care as defined in NRS 449.0038;

(3) A facility for skilled nursing as defined in NRS 449.0039;

(4) A hospital as defined in NRS 449.012;

(5) An independent center for emergency medical care as defined in NRS 449.013; or

(6) A surgical center for ambulatory patients as defined in NRS 449.019.

(c) "School property" has the meaning ascribed to it in NRS 701B.350.

Sec. 5. NRS 450B.600 is hereby amended to read as follows:

450B.600 1. Not later than July 1, 2004, and thereafter:

(a) The board of trustees of a school district in a county whose population is 100,000 or more shall ensure that at least one automated external defibrillator is placed in a central location at each high school within the district.

(b) The Reno-Tahoe Airport Authority shall ensure that at least three automated external defibrillators are placed in central locations at the largest airport within the county.

(c) The board of county commissioners of each county whose population is 400,000 or more shall ensure that at least seven automated external defibrillators are placed in central locations at the largest airport within the county.

(d) The Board of Regents of the University of Nevada shall ensure that at least two automated external defibrillators are placed in central locations at each of:

(1) The largest indoor sporting arena or events center controlled by the University in a county whose population is 100,000 or more but less than 400,000; and

(2) The largest indoor sporting arena or events center controlled by the University in a county whose population is 400,000 or more.

(e) The Health Division shall ensure that at least one automated external defibrillator is placed in a central location at each of the following state buildings:

(1) The Capitol Building in Carson City;

(2) ~~[The Kinkead Building in Carson City;~~

~~(3)]~~ The Legislative Building in Carson City; and

~~[(4)]~~ *(3)* The Grant Sawyer Building in Las Vegas.

(f) The board of county commissioners of each county whose population is 100,000 or more shall:

(1) Identify five county buildings or offices in each of their respective counties which are characterized by large amounts of pedestrian traffic or which house one or more county agencies that provide services to large numbers of persons; and

(2) Ensure that at least one automated external defibrillator is placed in a central location at each county building or office identified pursuant to subparagraph (1).

2. Each governmental entity that is required to ensure the placement of one or more automated external defibrillators pursuant to subsection 1:

(a) May accept gifts, grants and donations for use in obtaining, inspecting and maintaining the defibrillators;

(b) Shall ensure that those defibrillators are inspected and maintained on a regular basis; and

(c) Shall encourage the entity where the automated external defibrillator is placed to require any employee who will use the automated external

defibrillator to successfully complete the training requirements of a course in basic emergency care of a person in cardiac arrest that includes training in the operation and use of an automated external defibrillator and is conducted in accordance with the standards of the American Heart Association, the American National Red Cross or any ~~[other]~~ similar organization.

~~[3. As used in this section, "automated external defibrillator" means a medical device that:~~

~~(a) Has been approved by the United States Food and Drug Administration;~~

~~(b) Is capable of recognizing the presence or absence, in a patient, of ventricular fibrillation and rapid ventricular tachycardia;~~

~~(c) Is capable of determining, without intervention by the operator of the device, whether defibrillation should be performed on the patient;~~

~~(d) Upon determining that defibrillation should be performed, automatically charges and requests delivery of an electrical impulse to the patient's heart; and~~

~~(e) Upon action by the operator of the device, delivers to the patient's heart an appropriate electrical impulse.]~~

Senator Cegavske moved the adoption of the amendment.

Remarks by Senator Cegavske.

Senator Cegavske requested that her remarks be entered in the Journal.

Amendment No. 169 adds the following provision to Senate Bill No. 244. The amendment authorizes rather than requires all public schools to acquire automated external defibrillators. It clarifies that gifts, grants and donations may be used to maintain, as well as to establish, the database concerning automated external defibrillators in the State, and it specifies that the money collected from the civil penalty authorized in the measure must be used for the maintenance of the database.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 246.

Bill read second time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 187.

"SUMMARY—Revises provisions governing the sale of vehicles. (BDR 43-989)"

"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 that it is an unfair act or practice for any manufacturer to refuse the return of or reduce the price of a part, accessory or assembled component 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 warranties for certain used 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.

~~[Section 4 of this bill provides that it is an unfair act or practice for any manufacturer to refuse to accept and reimburse a dealer for the return of a part, accessory or assembled component for less than 1 year after the date the dealer purchased the part, accessory or assembled component. Section 4 further prohibits a manufacturer from reducing the suggested retail price of any part, accessory or assembled component, unless the cost to the dealer of the part, accessory or assembled component is reduced by an equal amount.]~~

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 ~~[original]~~ 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)

~~[Sections 10 and 11 of this bill provide that a used vehicle dealer who sells to a retail customer a used vehicle with not less than 75,000 miles or more than 105,000 miles on the odometer must provide to that retail customer an express written warranty under certain circumstances. (NRS 482.36662, 482.36663) Section 12 of this bill provides for the submission of complaints by a retail customer for a violation by the used vehicle dealer of such an express warranty. (NRS 482.36664)]~~

Section 13 of this bill provides that the forms for the application for credit and contracts to be used in the sale of vehicles prescribed by the Commissioner of Financial Institutions must contain a provision that provides if the seller elects to rescind the contract, he must provide written notice to the buyer not less than 20 days after the date of the contract. (NRS 97.299)

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:*

~~[1.]~~ (a) To alter substantially an existing facility of the dealer; or

~~[2.]~~ (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. *~~[1. Except as otherwise provided in subsection 3, it is an unfair act or practice for any manufacturer:~~*

~~(a) To refuse to accept and reimburse a dealer for the return of a part, accessory or assembled component for less than 1 year after the date the dealer purchased the part, accessory or assembled component.~~

~~(b) To reduce the suggested retail price of any part, accessory or assembled component, unless the cost to the dealer for the part, accessory or assembled component is reduced by an equal amount.~~

~~2. A manufacturer shall reimburse a dealer in an amount not less than the purchase price for each part, accessory or assembled component described in paragraph (a) of subsection 1.~~

~~3. This section does not apply to any part, accessory or assembled component that is not returned to the manufacturer in the original package or container as purchased by the dealer.~~] (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* ~~*[sections 2 to 5, inclusive,]*~~ *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* ~~*[sections 2 to 5, inclusive,]*~~ *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 ~~[sections 2 to 5, inclusive,]~~ 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 ~~[sections 2 to 5, inclusive,]~~ 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 ~~[original]~~ 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. ~~[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 *at least* 75,000 [miles or more,] *but less than 105,000 miles*, 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.]~~ *(Deleted by amendment.)*

Sec. 10. ~~[NRS 482.36662 is hereby amended to read as follows:~~

~~482.36662 1. A used vehicle dealer who sells to a retail customer a used vehicle the odometer of which registers *at least* 75,000 *but less than 105,000* 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.]~~ *(Deleted by amendment.)*

Sec. 11. ~~[NRS 482.36663 is hereby amended to read as follows:~~

~~482.36663 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 *but less than 105,000* 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.]~~ *(Deleted by amendment.)*

Sec. 12. ~~[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 *at least* 75,000 *but less than 105,000* miles [or more] may submit to the Department a written complaint regarding 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 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, 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, 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.]~~ *(Deleted by amendment.)*

Sec. 13. 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 which provides that if the seller elects to rescind the contract as a result of being unable to assign the contract to a financial institution with whom the seller regularly does business, the seller must provide written notice to the buyer not less than 20 days after the date of the contract.*

(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. 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 13, inclusive,]~~ *and sections 1 to 4, inclusive, and 7.5 to 13, inclusive, of this act become effective upon passage and approval.*

2. *Sections 5, 6 and 7* of this act become effective on ~~[October 1, 2009.~~ ~~2.]~~ *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.

~~[3.]~~ *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.

Senator Townsend moved the adoption of the amendment.

Remarks by Senator Townsend.

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

This bill and the amendment deal with the substantial downturn in the automobile, new-car industry as well as the consolidation therein.

There are three components to the amendment. The first has to do with the relationship between the manufacturer and the dealer relative to reasonable facilities requirements by the manufacturer. It cleans up the language to make it clear what that relationship is, and that a substantial change actually modifies the dealership contract known as the franchise agreement.

The second specifies that if there is consolidation in the industry, if one manufacturer or an entity purchases another, that those who currently have a franchise agreement would be offered a franchise agreement that would be substantially similar to those who would be receiving it anywhere else in the Country for a like make.

The last has to do with the effective dates of the act. They have been amended to allow the manufacturers, the dealers and the DMV to better conform to the changes in the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 251.

Bill read second time.

The following amendment was proposed by the Committee on Energy, Infrastructure and Transportation:

Amendment No. 144.

"SUMMARY—Revises certain provisions governing ~~[tow cars.]~~ *vehicles.* (BDR 43-1115)"

"AN ACT relating to ~~[tow cars;]~~ *vehicles;* specifying the circumstances under which a tow car can display flashing amber warning lights; authorizing the operator of a tow car to equip the tow car with a system or device that causes the upper-beam head lamps of the tow car to continue to flash alternately under certain circumstances; ~~[requiring the driver of a vehicle to yield the right-of-way to a tow car under certain circumstances;]~~ requiring the driver of a vehicle to take certain actions when he approaches a tow car which is stopped and making use of flashing amber warning lights; *specifying the circumstances under which a vehicle operated by a licensed private patrolman or his employee may display flashing amber warning lights; providing fees for certain permits;* providing a penalty; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law authorizes the operator of a tow car to equip the tow car with flashing amber warning lights pursuant to a permit issued by the Nevada Highway Patrol. (NRS 484.579) Section ~~[1]~~ *1.5* of this bill authorizes the use of flashing amber warning lights on a tow car when the tow car is: (1) approaching the immediate scene of ~~[an accident]~~ *a traffic hazard* on a highway or on premises to which the public has access; or (2) stopped upon or adjacent to the highway at the scene of ~~[an accident.]~~ *a traffic hazard.* In addition, section ~~[1]~~ *1.5* authorizes the use of a system or device that causes the upper-beam head lamps of the tow car to continue to flash alternately while the system or device is activated. Section ~~[1]~~ *1.5* also provides that the driver of a tow car that is equipped with such a system or

device may use the system or device only when approaching the immediate scene of ~~[an accident]~~ *a traffic hazard* on a highway or on premises to which the public has access. ~~[(NRS 484.579)~~

~~Section 2 of this bill requires the driver of every vehicle to yield the right-of-way to a tow car making use of flashing amber warning lights in the same manner that the driver must yield to an authorized emergency vehicle. (NRS 484.323)]~~

Section 3 of this bill requires a driver, upon approaching a tow car which is stopped and is making use of flashing amber warning lights to: (1) decrease the speed of his vehicle; (2) proceed with caution; (3) be prepared to stop; and (4) if possible, drive in a lane that is not adjacent to the lane in which the tow car is stopped. (NRS 484.364)

Section 4 of this bill authorizes a tow car operator who during daylight attends to a motor vehicle disabled on the highway to place a red flare, red lantern, warning light or reflector in close proximity to each warning sign which the operator is required to place upon the highway in the vicinity of the disabled motor vehicle. (NRS 484.499)

Sections 2.5 and 5 of this bill authorize the Nevada Highway Patrol to issue a permit authorizing the display of flashing amber warning lights on a vehicle operated by a licensed private patrolman or his employee when the private patrolman or his employee who operates the vehicle is engaged in the business for which the private patrolman is licensed and the vehicle is: (1) on private property which the private patrolman is authorized to protect; (2) on a public road and stopped adjacent to private property which the private patrolman is authorized to protect; or (3) on a public road and moving at a speed slower than the normal flow of traffic. Section 5 requires the Nevada Highway Patrol to charge and collect certain fees for the issuance of permits to display flashing amber warning lights on a vehicle, including a vehicle operated by a licensed private patrolman or his employee. (NRS 484.579)

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

Section 1. Chapter 484 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ *the provisions set forth as sections 1.5 and 2.5 of this act.*

Sec. 1.5. 1. A tow car which is equipped with flashing amber warning lights pursuant to NRS 484.579 may display flashing amber warning lights to the front, sides or rear of the tow car when:

(a) Approaching the immediate scene of ~~[an accident]~~ a traffic hazard on a highway or on premises to which the public has access; or

(b) Stopped upon or adjacent to the highway at the scene of ~~[an accident.]~~ a traffic hazard.

2. A tow car which is equipped with flashing amber warning lights pursuant to NRS 484.579 may be equipped with a system or device that causes the upper-beam head lamps of the tow car to continue to flash alternately while the system or device is activated. The driver of a tow car

that is equipped with such a system or device may use the system or device only when approaching the immediate scene of ~~[an accident]~~ a traffic hazard on a highway or on premises to which the public has access.

3. Any flashing light, system or device equipped pursuant to this section must comply with the standards approved by the Department.

4. As used in this section, "upper-beam head lamp" means a head lamp or that part of a head lamp which projects a distribution of light or composite beam meeting the requirements of subsection 1 of NRS 484.587.

Sec. 2. ~~[NRS 484.323 is hereby amended to read as follows:~~

~~484.323 Upon the immediate approach of~~ [an] ~~:~~

~~*1. An* authorized emergency vehicle or an official vehicle of a regulatory agency, making use of flashing lights meeting the requirements of subsection 3 of NRS 484.787 [,] ; or~~

~~*2. A tow car making use of flashing lights meeting the requirements of section 1 of this act,~~*

~~➡~~ ~~the driver of every other vehicle shall yield the right of way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of a highway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle , [or] official vehicle *or tow car* has passed, except when otherwise directed by a police officer.]~~ *(Deleted by amendment.)*

Sec. 2.5. A vehicle which is operated by a private patrolman licensed pursuant to chapter 648 of NRS or his employee and which is equipped with flashing amber warning lights pursuant to NRS 484.579 may display flashing amber warning lights to the front, sides or rear of the vehicle when:

1. The private patrolman or his employee who operates the vehicle is engaged in the business for which the private patrolman is licensed; and

2. The vehicle is:

(a) On private property which the private patrolman is authorized to protect;

(b) On a public road and stopped adjacent to private property which the private patrolman is authorized to protect; or

(c) On a public road and moving at a speed slower than the normal flow of traffic.

Sec. 3. NRS 484.364 is hereby amended to read as follows:

484.364 1. Upon approaching an authorized emergency vehicle which is stopped and is making use of flashing lights meeting the requirements of subsection 3 of NRS 484.787 ~~[,]~~ *or a tow car which is stopped and is making use of flashing lights meeting the requirements of section ~~[1]~~ 1.5 of this act,* the driver of the approaching vehicle shall, in the absence of other direction given by a peace officer:

(a) Decrease the speed of his vehicle to a speed that is:

(1) Reasonable and proper, pursuant to the criteria set forth in subsection 1 of NRS 484.361; and

(2) Less than the posted speed limit, if a speed limit has been posted;

(b) Proceed with caution;

(c) Be prepared to stop; and

(d) If possible, drive in a lane that is not adjacent to the lane in which the emergency vehicle *or tow car* is stopped, unless roadway, traffic, weather or other conditions make doing so unsafe or impossible.

2. A person who violates subsection 1 is guilty of a misdemeanor.

Sec. 4. NRS 484.499 is hereby amended to read as follows:

484.499 Where a motor vehicle is disabled on the highway , ~~[during darkness,]~~ the tow car operator shall immediately upon arrival place warning signs upon the highway as prescribed in NRS 484.497 and *:*

1. During darkness, shall place not less than one red flare, red lantern, warning light or reflector in close proximity to each warning sign.

2. During daylight, may place a red flare, red lantern, warning light or reflector in close proximity to each warning sign.

Sec. 5. NRS 484.579 is hereby amended to read as follows:

484.579 1. It is unlawful to operate or display a flashing amber warning light on a vehicle except when an unusual traffic hazard exists or as authorized in NRS 484.582 ~~[.]~~ *or section ~~[1]~~ 1.5 or 2.5 of this act.* This subsection does not prohibit the use of amber lights in electric signals for making turns.

2. It is unlawful for any person to mount flashing amber warning lights permanently on a vehicle without a permit from the Nevada Highway Patrol.

3. The Nevada Highway Patrol, upon written application, shall issue a permit to mount a flashing amber light on:

(a) Vehicles of public utilities.

(b) ~~[Trucks for towing vehicles.]~~ *Tow cars.*

(c) Vehicles engaged in activities which create a public hazard upon the streets or highways.

(d) Vehicles of coroners and their deputies.

(e) Vehicles of Civil Air Patrol rescue units.

(f) Vehicles of authorized sheriffs' jeep squadrons.

(g) Vehicles which escort funeral processions.

(h) Vehicles operated by vendors of food or beverages, as provided in NRS 484.582.

(i) Vehicles operated by private patrolmen licensed pursuant to chapter 648 of NRS or their employees.

4. Those permits expire on June 30 of each calendar year.

5. The Nevada Highway Patrol shall charge and collect the following fees for the issuance of a permit for the mounting of a flashing amber light:

(a) Permit for a single vehicle $2

(b) Blanket permit for more than 5 but less than 15 vehicles 12

(c) Blanket permit for 15 vehicles or more 24

6. Subsections 1 and 2 do not apply to an agency of any state or political subdivision thereof, or to an agency of the Federal Government.

7. All fees collected by the Nevada Highway Patrol pursuant to this section must be deposited with the State Treasurer for credit to the State Highway Fund.

Sec. 6. This act becomes effective on July 1, 2009.

Senator Nolan moved the adoption of the amendment.

Remarks by Senator Nolan.

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

Thank you, Mr. President. The amendment attempts to alleviate traffic hazards by allowing tow trucks to get into the scene of accidents quicker.

The amendment changes the language from "scene of accident" to "scene of a traffic hazard" and requires that drivers yield the right of way to tow trucks that are trying to get into the scene of an accident.

Also, it was the correct section of the statute to allow my colleague from Senate District No. 6 to include an amendment which allows vehicles operated by private patrolmen or licensed security guards to use their amber lights on a public road under certain circumstances.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 287.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 190.

"SUMMARY—Makes various changes concerning ~~[the]~~ personal financial administration. (BDR 13-658)"

"AN ACT relating to personal financial administration; revising provisions concerning the appointment of a guardian; providing for the classification of trusts; providing for the administration of directed trusts; adopting provisions governing the administration of trusts; revising provisions concerning spendthrift trusts; exempting certain property of a trust from execution and attachment; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Section 1 of this bill revises existing law to allow a court to appoint a person convicted of a felony as a guardian if the court determines such conviction should not disqualify that person. (NRS 159.059)

Section 2 of this bill revises existing law to allow any interested person to petition a court for an order authorizing a guardian to take certain actions. (NRS 159.078)

Sections 4-37 of this bill adopt provisions relating to trusts. (Chapter 163 of NRS) Sections 13-19 provide for the classification of certain trusts. Section 13 provides that: (1) a creditor may not exercise and a court may not order a beneficiary or a trustee to exercise certain powers or discretion; (2) trust property is not subject to the personal obligations of the trustee; and (3) a settlor may provide in a trust instrument for limitations on a beneficiary's power to transfer his interests. Section 15 sets forth the factors for determining when a settlor or beneficiary may be exercising undue influence over a trust. Section 16 provides factors for determining when a

settlor is the alter ego of a trustee. Section 17 provides the classifications of a distribution interest and how such interests are divided in a trust. Section 18 provides that a beneficiary has an enforceable right to distribution of a support interest. Section 19 describes the discretion a trustee may exercise with regard to the distribution of certain interests.

Sections 20-37 of this bill adopt provisions concerning directed trusts. Section 30 limits the liability of certain fiduciaries. Section 32 provides when an adviser to a trust is also considered a fiduciary. Section 33 prescribes the powers and duties of a protector of a trust. Section 34 requires certain persons who help facilitate a trust to submit to the jurisdiction of this State. Section 35 sets forth the powers and discretion that certain persons who assist in facilitating the administration of a trust may execute. Section 36 limits the claims a creditor can bring against a settlor or beneficiary. Section 37 provides for the transfer of trust assets to another trust under certain circumstances.

Sections 38-42 of this bill amend existing law regarding trusts to provide greater ability of a settlor or beneficiary to modify or terminate a trust and to account for changes in a trust related to federal or state taxes. (NRS 163.030, 163.050, 163.185, 163.260)

Sections 44-50 of this bill adopt provisions governing the administration of trusts. (Chapter 164 of NRS) Section 44 provides a process to contest an irrevocable trust. Section 45 provides that certain persons, if not already represented, may be represented by certain other persons with similar interests in proceedings concerning the administration of a trust. Section 46 grants a trustee the power to convert a trust into a unitrust. Sections 47-49 provide for the administration of a unitrust. Section 50 provides for the distribution of community property in a nontestamentary trust established by married settlors.

Section 51 of this bill amends existing procedures for proceedings against a nontestamentary trust. (NRS 164.015)

Sections 58-60 of this bill amend existing law concerning the powers and responsibilities of a settlor or trustee for a spendthrift trust. (NRS 166.040, 166.120, 166.170)

Sections 61, 63 and 64 of this bill provide for the exemption of certain trust property, interests or powers from execution or attachment. (NRS 21.075, 21.090, 31.045)

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

Section 1. NRS 159.059 is hereby amended to read as follows:

159.059 Except as otherwise provided in NRS 159.0595, any qualified person or entity that the court finds suitable may serve as a guardian. A person is not qualified to serve as a guardian who:

1. Is an incompetent.
2. Is a minor.

3. Has been convicted of a felony , ~~[relating to the position of a guardian,]~~ unless the court ~~[finds that it is in the best interests of the ward to appoint the convicted felon]~~ *determines that such conviction should not disqualify the person from serving* as the guardian of the ward.

4. Has been suspended for misconduct or disbarred from:

(a) The practice of law;

(b) The practice of accounting; or

(c) Any other profession which:

(1) Involves or may involve the management or sale of money, investments, securities or real property; and

(2) Requires licensure in this State or any other state,

➥ during the period of the suspension or disbarment.

5. Is a nonresident of this State and:

(a) Is not a foreign guardian of a nonresident proposed ward pursuant to subsection 2 of NRS 159.049;

(b) Has not associated as a coguardian, a resident of this State or a banking corporation whose principal place of business is in this State; and

(c) Is not a petitioner in the guardianship proceeding.

6. Has been judicially determined, by clear and convincing evidence, to have committed abuse, neglect or exploitation of a child, spouse, parent or other adult, unless the court finds that it is in the best interests of the ward to appoint the person as the guardian of the ward.

Sec. 2. NRS 159.078 is hereby amended to read as follows:

159.078 1. Before taking any of the following actions, the guardian shall petition the court for an order authorizing the guardian to:

(a) Make or change the last will and testament of the ward.

(b) Except as otherwise provided in this paragraph, make or change the designation of a beneficiary in a will, trust, insurance policy, bank account or any other type of asset of the ward which includes the designation of a beneficiary. The guardian is not required to petition the court for an order authorizing the guardian to utilize an asset which has a designated beneficiary, including the closure or discontinuance of the asset, for the benefit of a ward if:

(1) The asset is the only liquid asset available with which to pay for the proper care, maintenance, education and support of the ward;

(2) The asset, or the aggregate amount of all the assets if there is more than one type of asset, has a value that does not exceed $5,000; or

(3) The asset is a bank account, investment fund or insurance policy and is required to be closed or discontinued in order for the ward to qualify for a federal program of public assistance.

(c) Create for the benefit of the ward or others a revocable or irrevocable trust of the property of the estate.

(d) Except as otherwise provided in this paragraph, exercise the right of the ward to revoke or modify a revocable trust or to surrender the right to revoke or modify a revocable trust. The court shall not authorize or require

the guardian to exercise the right to revoke or modify a revocable trust if the instrument governing the trust:

(1) Evidences an intent of the ward to reserve the right of revocation or modification exclusively to the ward;

(2) Provides expressly that a guardian may not revoke or modify the trust; or

(3) Otherwise evidences an intent that would be inconsistent with authorizing or requiring the guardian to exercise the right to revoke or modify the trust.

2. *Any other interested person may also petition the court for an order authorizing or directing the guardian to take any action described in subsection 1.*

3. The court may authorize the guardian to take any action described in subsection 1 if, after notice to any person who is adversely affected by the proposed action and an opportunity for a hearing, the ~~[guardian proves]~~ *court finds* by clear and convincing evidence that:

(a) A *reasonably prudent person or the ward, if competent, would take the proposed action and that a* person has committed or is about to commit any act, practice or course of conduct which operates or would operate as a fraud or act of exploitation upon the ward or estate of the ward and that person:

(1) Is designated as a beneficiary in or otherwise stands to gain from an instrument which was executed by or on behalf of the ward; or

(2) Will benefit from the lack of such an instrument; ~~[and]~~ *or*

(b) ~~[A reasonably prudent person or the ward, if competent, would take the proposed action.]~~ *The proposed action is otherwise in the best interests of the ward for any other reason not listed in this section.*

~~[3.]~~ *4.* The petition must ~~[be signed by the guardian and contain:]~~ *contain, to the extent known by the petitioner:*

(a) The name, date of birth and current address of the ward;

(b) A concise statement as to the condition of the ward's estate; and

(c) A concise statement as to the necessity for the proposed action.

~~[4.]~~ *5.* As used in this section:

(a) "Exploitation" means any act taken by a person who has the trust and confidence of a ward or any use of the power of attorney of a ward to:

(1) Obtain control, through deception, intimidation or undue influence, over the money, assets or property of the ward with the intention of permanently depriving the ward of the ownership, use, benefit or possession of the ward's money, assets or property.

(2) Convert money, assets or property of the ward with the intention of permanently depriving the ward of the ownership, use, benefit or possession of his money, assets or property.

➥ As used in this paragraph, "undue influence" does not include the normal influence that one member of a family has over another.

(b) "Fraud" means an intentional misrepresentation, deception or concealment of a material fact known to the person with the intent to deprive the ward of the ward's rights or property or to otherwise injure the ward.

(c) "Interested person" has the meaning ascribed to it in NRS 132.185 and also includes a named beneficiary under a trust or other instrument if the validity of the trust or other instrument may be in question.

Sec. 3. Chapter 163 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 to 37, inclusive, of this act.

Sec. 4. *As used in sections 4 to 19, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 5 to 11, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 5. *"Beneficial interest" means a distribution interest or a remainder interest, but does not include a power of appointment or a power reserved by the settlor.*

Sec. 6. *"Beneficiary" means a person that has a present or future beneficial interest in a trust, vested or contingent, but does not include the holder of a power of appointment.*

Sec. 7. *"Distribution beneficiary" means a beneficiary who is eligible or permitted to receive trust income or principal.*

Sec. 8. *"Distribution interest" means a present or future interest in trust income or principal, which may be a mandatory, support or discretionary interest, held by a distribution beneficiary.*

Sec. 9. *"Power of appointment" means an inter vivos or testamentary power, held by a person other than the settlor, to direct the disposition of trust property, other than a distribution decision by a trustee to a beneficiary.*

Sec. 10. *"Remainder interest" means an interest where a trust beneficiary will receive the property from a trust outright at some time in the future.*

Sec. 11. *"Reserved power" means a power concerning a trust held by the settlor.*

Sec. 12. *The provisions of sections 4 to 19, inclusive, of this act do not abrogate or limit any principle or rule of the common law, unless the common law principle or rule is inconsistent with the provisions of sections 4 to 19, inclusive, of this act.*

Sec. 13. *1. A creditor may not exercise, and a court may not order the exercise of:*

(a) A power of appointment or any other power concerning a trust that is held by a beneficiary;

(b) Any power listed in section 33 of this act that is held by a trust protector as defined in section 29 of this act or any other person;

(c) A trustee's discretion to:

(1) Distribute any discretionary interest;

(2) Distribute any mandatory interest which is past due directly to a creditor; or

(3) Take any other authorized action in a specific way; or

(d) A power to distribute a beneficial interest of a trustee solely because the beneficiary is a trustee.

2. Trust property is not subject to the personal obligations of the trustee, even if the trustee is insolvent or bankrupt.

3. A settlor may provide in the terms of the trust instrument that a beneficiary's beneficial interest may not be transferred, voluntarily or involuntarily, before the trustee has delivered the interest to the beneficiary.

Sec. 14. *Except as otherwise provided in the trust instrument, the trustee is not required to consider a beneficiary's assets or resources in determining whether to make a distribution of trust assets.*

Sec. 15. *If a party asserts that a beneficiary or settlor is exercising improper dominion or control over a trust, the following factors, alone or in combination, must not be considered exercising improper dominion or control over a trust:*

1. A beneficiary is serving as a trustee.

2. The settlor or beneficiary holds unrestricted power to remove or replace a trustee.

3. The settlor or beneficiary is a trust administrator, general partner of a partnership, manager of a limited-liability company, officer of a corporation or any other manager of any other type of entity and all or part of the trust property consists of an interest in the entity.

4. The trustee is a person related by blood , ~~[or]~~ adoption or marriage to the settlor or beneficiary.

5. The trustee is the settlor or beneficiary's agent, accountant, attorney, financial adviser or friend.

6. The trustee is a business associate of the settlor or beneficiary.

Sec. 16. *Absent clear and convincing evidence, a settlor of an irrevocable trust shall not be deemed to be the alter ego of a trustee of an irrevocable trust. If a party asserts that a settlor of an irrevocable trust is alter ego of a trustee of the trust, the following factors, alone or in combination, are not sufficient evidence for a court to find that the settlor controls or is the alter ego of a trustee:*

1. The settlor has signed checks, made disbursements or executed other documents related to the trust as the trustee and the settlor is not a trustee, if the settlor has done so in isolated incidents.

2. The settlor has made requests for distributions on behalf of a beneficiary.

3. The settlor has made requests for the trustee to hold, purchase or sell any trust property.

4. The settlor has engaged in any one of the activities, alone or in combination, listed in section 15 of this act.

Sec. 17. *1. A distribution interest may be classified as:*

(a) A mandatory interest if the trustee has no discretion to determine whether a distribution should be made, when a distribution should be made or the amount of the distribution.

(b) A support interest if the distribution of a support interest contains a standard for distribution for the support of a person which may be interpreted by the trustee or a court, as necessary. A provision in a trust which provides a support interest may contain mandatory language which a trustee must follow.

(c) A discretionary interest if the trustee has discretion to determine whether a distribution should be made, when a distribution should be made and the amount of the distribution.

2. If a trust contains a combination of a mandatory interest, a support interest or a discretionary interest, the trust must be separated as:

(a) A mandatory interest only to the extent of the mandatory language provided in the trust;

(b) A support interest only to the extent of the support language provided in the trust; and

(c) A discretionary interest for any remaining trust property.

3. If a trust provides for a support interest that also includes mandatory language but the mandatory language is qualified by discretionary language, the support interest must be classified and separated as a discretionary interest.

Sec. 18. *1. A beneficiary of a support interest has an enforceable right to distribution thereof and may petition a court for review of the distribution.*

2. A court may review a trustee's decision to distribute a support interest for unreasonableness, dishonesty, improper motivation or failure to act.

Sec. 19. *1. A court may review a trustee's exercise of discretion concerning a discretionary interest only if the trustee acts dishonestly, with improper motive or fails to act.*

2. A trustee given discretion in a trust instrument that is described as sole, absolute, uncontrolled, unrestricted or unfettered discretion, or with similar words, has no duty to act reasonably in the exercise of that discretion.

3. Absent express language in a trust to the contrary, if a discretionary interest permits unequal distributions between beneficiaries or to the exclusion of other beneficiaries, the trustee may distribute all of the undistributed income and principal to one beneficiary in the trustee's discretion.

4. Regardless of whether a beneficiary has an outstanding creditor, a trustee of a discretionary interest may directly pay any expense on the beneficiary's behalf and may exhaust the income and principal of the trust for the benefit of such beneficiary.

Sec. 20. *As used in sections 20 to 37, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 21 to 29, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 21. *"Custodial account" means an account:*

1. Established by a person with a bank, as defined in 26 U.S.C. § 408(n), or with a person approved by the Internal Revenue Service as satisfying the requirements to be a nonbank trustee or nonbank passive trustee pursuant to regulations established by the United States Treasury pursuant to 26 U.S.C. § 408; and

2. Governed by an instrument concerning the establishment or maintenance of an individual retirement account, qualified retirement plan, an Archer medical savings account, health savings account, a Coverdell education savings account or any similar retirement or savings account permitted under the Internal Revenue Code of 1986.

Sec. 22. *"Custodial account owner" means any person who:*

1. Establishes a custodial account;

2. Has the power to designate the beneficiaries or appoint the custodian of the custodial account;

3. Has the power to direct the investment, disposition or retention of any assets in the custodial account; or

4. Can name an authorized designee to perform the actions described in subsection 3.

Sec. 23. *"Distribution trust adviser" means a fiduciary given authority by an instrument to exercise any or all powers and discretion set forth in section 35 of this act.*

Sec. 24. *"Excluded fiduciary" means any fiduciary excluded from exercising certain powers under the instrument and those powers may be exercised by the settlor, custodial account owner, investment trust adviser, trust protector, trust committee or other person designated in the instrument.*

Sec. 25. *"Fiduciary" means a trustee or custodian under any instrument, or an executor, administrator or personal representative of a decedent's estate or any other person, including an investment trust adviser, trust protector or a trust committee which is acting in a fiduciary capacity for any person, trust or estate.*

Sec. 26. *"Instrument" means any revocable or irrevocable trust instrument created inter vivos or testamentary or any custodial account agreement.*

Sec. 27. *"Investment trust adviser" means a fiduciary given authority by the instrument to exercise any or all of the powers and discretion set forth in section 35 of this act.*

Sec. 28. *"Trust adviser" means a distribution trust adviser or investment trust adviser.*

Sec. 29. *"Trust protector" means any person whose appointment is provided for in the instrument.*

Sec. 30. *1. An excluded fiduciary is not liable, individually or as a fiduciary for any loss which results from:*

(a) Complying with a direction of a trust adviser, custodial account owner or authorized designee of a custodial account owner;

(b) A failure to take any action proposed by an excluded fiduciary which requires prior authorization of the trust adviser if the excluded fiduciary timely sought but failed to obtain such authorization; or

(c) Any action taken at the direction of a trust protector.

2. An excluded fiduciary is not liable for any obligation to perform an investment or suitability review, inquiry or investigation or to make any recommendation or evaluation with respect to any investment, to the extent that the trust adviser, custodial account owner or authorized designee of a custodial account owner had authority to direct the acquisition, disposition or retention of such investment.

3. The provisions of this section do not impose an obligation or liability on a custodian of a custodial account for providing any authorization.

Sec. 31. *If the instrument provides, an excluded fiduciary may continue to follow the direction of a trust adviser upon the incapacity or death of the settlor of the trust.*

Sec. 32. *If one or more trust advisers are given authority, by the terms of an instrument, to direct, consent to or disapprove a fiduciary's investment decisions, the investment trust advisers shall be considered fiduciaries when exercising that authority unless the instrument provides otherwise.*

Sec. 33. *1. A trust protector may exercise the powers provided to him in the instrument in the best interests of the trust. The powers exercised by a trust protector are at his sole discretion and are binding on all other persons. The powers granted to a trust protector may include, without limitation, the power to:*

(a) Modify or amend the instrument to achieve a more favorable tax status or to respond to changes in federal or state law.

(b) Modify or amend the instrument to take advantage of changes in the rule against perpetuities, restraints on alienation or other state laws restricting the terms of a trust, the distribution of trust property or the administration of the trust.

(c) Increase or decrease the interests of any beneficiary under the trust.

(d) Modify the terms of any power of appointment granted by the trust. A modification or amendment may not grant a beneficial interest to a person which was not specifically provided for under the trust instrument.

(e) Remove and appoint a trustee, trust adviser, investment committee member or distribution committee member.

(f) Terminate the trust.

(g) Direct or veto trust distributions.

(h) Change the location or governing law of the trust.

(i) Appoint a successor trust protector or trust adviser.

(j) Interpret terms of the instrument at the request of the trustee.

(k) Advise the trustee on matters concerning a beneficiary.

(l) Review and approve a trustee's reports or accounting.

2. The powers provided pursuant to subsection 1 may be incorporated by reference to this section at the time a testator executes a will or a settlor

signs a trust instrument. The powers provided pursuant to subsection 1 may be incorporated in whole or in part.

Sec. 34. *If a person accepts an appointment to serve as a trust protector or a trust adviser of a trust subject to the laws of this State, the person submits to the jurisdiction of the courts of this State, regardless of any term to the contrary in an agreement or instrument. A trust protector or a trust adviser may be made a party to an action or proceeding arising out of a decision or action of the trust protector or trust adviser.*

Sec. 35. *1. An instrument may provide for the appointment of a person to act as an investment trust adviser or a distribution trust adviser with regard to investment decisions or discretionary distributions.*

2. An investment trust adviser may exercise the powers provided to him in the instrument in the best interests of the trust. The powers exercised by an investment trust adviser are at his sole discretion and are binding on all other persons. The powers granted to an investment trust adviser may include, without limitation, the power to:

(a) Direct the trustee with respect to the retention, purchase, sale or encumbrance of trust property and the investment and reinvestment of principal and income of the trust.

(b) Vote proxies for securities held in trust.

(c) Select one or more investment advisers, managers or counselors, including the trustee, and delegate to such persons any of the powers of the investment trust adviser.

3. A distribution trust adviser may exercise the powers provided to him in the instrument in the best interests of the trust. The powers exercised by a distribution trust adviser are at his sole discretion and are binding on all other persons. Except as otherwise provided in the instrument, the distribution trust adviser shall direct the trustee with regard to all discretionary distributions to a beneficiary.

Sec. 36. *1. Except as otherwise provided in subsection 2, a creditor of a settlor may not seek to satisfy a claim against the settlor from the assets of a trust if the settlor's sole interest in the trust is the existence of a discretionary power granted to a person other than the settlor by the terms of the trust or by operation of law or to reimburse the settlor for any tax on trust income or principal which is payable by the settlor under the law imposing such tax.*

2. The provisions of subsection 1 do not apply to trust property transferred by the settlor to the extent a creditor can prove the transfer was fraudulent pursuant to chapter 112 of NRS or was otherwise wrongful as to that creditor.

3. ~~[A]~~ For purposes of this section, a beneficiary of a trust shall ~~[not be considered]~~ be deemed to not be a settlor of a trust because of a lapse, waiver or release of the beneficiary's right to withdraw part or all of the trust property if the value of the property which could have been withdrawn by exercising ~~[a power]~~ the right of withdrawal ~~[and the value of the property]~~

in ~~[the]~~ any calendar year ~~[at the time of the lapse, waiver or release]~~ does not , at the time of the lapse, waiver or release, exceed the greater of the amount provided in 26 U.S.C. § 2041(b)(2), 26 U.S.C. § 2503(b) or 26 U.S.C. § 2514(e), as amended ~~[.]~~ , or any successor provision.

Sec. 37. *1. Unless the terms of a testamentary instrument or irrevocable trust provide otherwise, a trustee with discretion or authority to distribute trust income or principal to or for a beneficiary of the trust may exercise such discretion or authority by appointing the property subject to such discretion or authority in favor of a second trust for the benefit of one or more of those beneficiaries.*

2. Notwithstanding subsection 1, a trustee may not appoint property of the original trust to a second trust if:

(a) The second trust includes a beneficiary who is not a beneficiary of the original trust. For purposes of this paragraph, a permissible appointee of a power of appointment exercised by a beneficiary of the second trust is not considered a beneficiary of the second trust.

(b) Appointing the property will reduce any current fixed income interest, annuity interest or unitrust interest of a beneficiary of the original trust. As used in this paragraph, "unitrust" has the meaning ascribed to it in NRS 164.700.

(c) A contribution made to the original trust qualified for a marital or charitable deduction for federal or state income, gift or estate taxes or qualified for a gift tax exclusion for federal or state tax purposes and the terms of the second trust include a provision which if included in the original trust would prevent the original trust from qualifying for the tax deduction or exclusion.

(d) The property to be appointed is subject to a power of withdrawal which is held by a beneficiary of the original trust and may be executed at the time of the proposed appointment.

(e) Property specifically allocated for one beneficiary of the original trust is no longer allocated for that beneficiary under either or both trusts, unless the beneficiary consents in writing.

(f) Property held for the benefit of one or more beneficiaries under both the original and the second trust has a lower value than the value of the property held for the benefit of the same beneficiaries under only the original trust, unless:

(1) The benefit provided is limited to a specific amount or periodic payments of a specific amount; and

(2) The value of the property held in either or both trusts for the benefit of one or more beneficiaries is actuarially adequate to provide the benefit.

(g) Under the second trust:

(1) Discretionary distributions may be made by the trustee to a beneficiary or group of beneficiaries of the original trust;

(2) Distributions are not limited by an ascertainable standard; and

(3) A beneficiary or group of beneficiaries has the power to remove and replace the trustee of the second trust with a beneficiary of the second trust or with a trustee that is related to or subordinate to a beneficiary of the second trust.

3. Notwithstanding the provisions of subsection 1, a trustee who is a beneficiary of the original trust may not exercise the authority to appoint property of the original trust to a second trust if:

(a) Under the terms of the original trust or pursuant to law governing the administration of the original trust:

(1) The trustee does not have discretion to make distributions to himself;

(2) The trustee's discretion to make distributions to himself is limited by an ascertainable standard; or

(3) The trustee's discretion to make distributions to himself can only be exercised with the consent of a cotrustee or a person holding an adverse interest and under the terms of the second trust the trustee's discretion to make distributions to himself is not limited by an ascertainable standard and may be exercised without consent; or

(b) Under the terms of the original trust or pursuant to law governing the administration of the original trust, the trustee of the original trust does not have discretion to make distributions that will discharge the trustee's legal support obligations but under the second trust the trustee's discretion is not limited.

4. Before appointing property pursuant to subsection 1, a trustee may give notice of a proposed action pursuant to NRS 164.725 or may petition a court for approval pursuant to NRS 153.031, 164.015 or 164.725. Any notice of a proposed action or a petition for a court's approval must include the trustee's opinion of how the appointment of property will affect the trustee's compensation and the administration of other trust expenses.

5. Notwithstanding the provisions of subsection 2 or 3, the trust instrument of the second trust may:

(a) Grant a power of appointment to one or more of the beneficiaries of the second trust who are proper objects of the exercise of the power in the original trust. The power of appointment includes, without limitation, the power to appoint trust property to the holder of the power, the holder's creditors, the holder's estate, the creditors of the holder's estate or any other person.

(b) Provide that, at a time or occurrence of an event specified in the trust instrument, the remaining trust assets in the second trust must be held for the beneficiaries of the original trust upon terms and conditions that are substantially identical to the terms and conditions of the original trust.

6. The power to appoint the property of the original trust pursuant to subsection 1 must be exercised by a writing, signed by the trustee and filed with the records of the trust.

7. The exercise of the power to invade principal of the original trust pursuant to subsection 1 is considered the exercise of a power of appointment, other than power to appoint the property to the trustee, the trustee's creditors, the trustee's estate or the creditors of the trustee's estate and the provisions of NRS 111.1031 apply to such power of appointment.

8. The provisions of this section do not abridge the right of any trustee who has the power to appoint property which arises under any other law.

9. The provisions of this section do not impose upon a trustee a duty to exercise the power to appoint property pursuant to subsection 1.

10. The power to appoint property to another trust pursuant to subsection 1 is not a power to amend the trust and a trustee is not prohibited from appointing property to another trust pursuant to subsection 1 if the original trust is irrevocable or provides that it may not be amended.

11. A trustee's power to appoint property to another trust pursuant to subsection 1 is not limited by the existence of a spendthrift provision in the original trust.

12. A trustee exercising any power granted pursuant to this section may designate himself or any other person permitted to act as a trustee as the trustee of the second trust.

13. The trustee of a second trust, resulting from the exercise of the power to appoint property to another trust pursuant to subsection 1, may also exercise the powers granted pursuant to this section with respect to the second trust.

14. As used in this section, "ascertainable standard" means a standard relating to an individual's health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code and any regulations of the United States Treasury promulgated thereunder.

Sec. 38. NRS 163.002 is hereby amended to read as follows:

163.002 Except as otherwise provided by specific statute, a trust may be created by any of the following methods:

1. A declaration by the owner of property that he holds the property as trustee.

2. A transfer of property by the owner during his lifetime to another person as trustee.

3. A testamentary transfer of property by the owner to another person as trustee.

4. An exercise of a power of appointment ~~[to another person as trustee.]~~ *in trust.*

5. An enforceable promise to create a trust.

Sec. 39. NRS 163.030 is hereby amended to read as follows:

163.030 *1.* Except as provided in NRS 163.040, no corporate trustee shall lend trust funds to itself or an affiliate, or to any director, officer, or employee of itself or of an affiliate . ~~[; nor shall any]~~

2. Except as otherwise ~~*[provided]*~~ *:*

(a) Provided in a trust instrument and ~~*[consented]*~~ *:*

(1) Consented to by all beneficiaries of the trust ~~*[, not]*~~ *; or*

(2) Performed in accordance with a notice of a proposed action provided pursuant to NRS 164.725; or

(b) Approved by a court,

➥ *a* noncorporate trustee*, including a limited-liability company,* shall *not* lend trust funds to *itself,* himself, or to ~~[his]~~ *a* relative, employer, employee, partner, *member* or other business associate.

Sec. 40. NRS 163.050 is hereby amended to read as follows:

163.050 1. Except as otherwise provided in subsection 2, no trustee may directly or indirectly buy or sell any property for the trust from or to itself or an affiliate, or from or to a director, officer or employee of the trustee or of an affiliate, or from or to a relative, employer, partner or other business associate of a trustee, except with the prior approval of the court having jurisdiction of the trust estate.

2. If authorized by the trust instrument or consented to by all beneficiaries of the trust, a ~~[corporate]~~ trustee may directly or indirectly buy or sell any property ~~[, other than real property,]~~ for the trust from or to itself or an affiliate, or from or to a director, officer or employee of the trustee or of an affiliate, or from or to a relative, employer, partner or other business associate of the trustee.

Sec. 41. ~~[NRS 163.185 is hereby amended to read as follows:~~

~~163.185 *1.* Upon such terms and conditions as are just and proper, the court may order termination and distribution of a trust before the time provided in the trust instrument, if administration or continued administration of the trust is no longer feasible or economical. A petition for such an order may be filed by an interested person under NRS 164.010 and 164.015.~~

~~*2. If the settlor and all beneficiaries of the trust consent, the settlor and beneficiaries may compel the modification or termination of a trust without the approval of the court.*~~

~~*3. If any beneficiary does not consent to the modification or termination of the trust, the other beneficiaries, with consent of the settlor, may petition the court to compel a modification or partial termination of the trust if the interests of the beneficiary who does not consent are not substantially impaired.*~~

~~*4. If the trust provides for the distribution of the trust principal to a class of persons described only as heirs or next of kin of the settlor, or using other language that describes a class of persons that would take the estate of the settlor under the rules of intestacy, the court may limit the class of beneficiaries whose consent is needed to modify or terminate the trust to the beneficiaries who are reasonably likely to take the principal of the trust.*~~

~~*5. The consent of a beneficiary who is a minor, incapacitated or unborn or a person whose identity or location is unknown and not reasonably ascertainable may be given pursuant to section 45 of this act or in*~~

~~*proceedings before the court by a guardian ad litem.]*~~ *(Deleted by amendment.)*

Sec. 42. NRS 163.260 is hereby amended to read as follows:

163.260 1. ~~[By an expressed intention of the testator or settlor to do so contained in a]~~ *Except as otherwise expressly provided by a testator in a* will ~~[,]~~ or *by a settlor* in ~~[an]~~ *a trust* instrument , ~~[in writing whereby a trust estate is created inter vivos, any or]~~ all of the powers ~~[or any portion thereof]~~ enumerated in NRS 163.265 to 163.410, inclusive, as they exist at the time that the testator signs the will or places his electronic signature on the will, if it is an electronic will, or at the time that the first settlor signs the trust instrument or places his electronic signature on the trust instrument, if it is an electronic trust, ~~[may]~~ *must* be ~~[, by appropriate reference made thereto,]~~ incorporated in such will or ~~[other written]~~ *trust* instrument ~~[,]~~ *as to the fiduciaries appointed under that will or trust* with the same effect as though such language were set forth verbatim in the instrument. Incorporation of ~~[one or more of]~~ the powers contained in NRS 163.265 to 163.410, inclusive, ~~[by reference to the proper section shall]~~ *must* be in addition to and not in limitation of the common-law or statutory powers of the fiduciary.

2. A fiduciary shall not *have or* exercise any power or authority conferred as provided in NRS 163.260 to 163.410, inclusive, in such a manner as, in the aggregate, to deprive the trust or the estate involved of an otherwise available tax exemption, deduction or credit, expressly including the marital deduction, or operate to impose a tax upon a donor or testator or other person as owner of any portion of the trust or estate involved. *Notwithstanding any other provision of law, any power purportedly granted to a personal representative or a trustee, either in a will or a trust instrument, is void if having or exercising such power would deprive the will or trust of the intended tax consequences.* "Tax" includes, but is not limited to, any federal income, gift, estate , *generation skipping transfer* or inheritance tax.

3. ~~[This section does not prevent the incorporation of the]~~ *The* powers enumerated in NRS 163.265 to 163.410, inclusive, *may be incorporated by reference as to any fiduciary appointed* in any other kind of instrument or agreement ~~[.]~~ *where a fiduciary is appointed.*

4. As used in this section, "electronic will" has the meaning ascribed to it in NRS 132.119.

Sec. 43. Chapter 164 of NRS is hereby amended by adding thereto the provisions set forth as sections 44 to 50, inclusive, of this act.

Sec. 44. *1. When a revocable trust becomes irrevocable because of the death of a settlor or by the express terms of the trust, the trustee may, within 90 days after the trust becomes irrevocable, provide notice to any beneficiary of the irrevocable trust, any heir of the settlor or to any other interested person.*

2. The notice provided by the trustee must contain:

(a) The identity of the settlor of the trust and the date of execution of the trust instrument;

(b) The name, mailing address and telephone number of any trustee of the trust;

(c) Any provision of the trust instrument which pertains to the beneficiary or notice that the heir or interested person is not a beneficiary under the trust;

(d) Any information required to be included in the notice expressly provided by the trust instrument; and

(e) A statement set forth in a separate paragraph, in 12-point boldface type or an equivalent type which states: "You may not bring an action to contest the trust more than 120 days from the date this notice is served upon you."

3. The trustee shall serve the notice pursuant to the provisions of NRS 155.010.

4. No person upon whom notice is served pursuant to this section may bring an action to contest the validity of the trust more than 120 days from the date the notice is served upon him, unless he proves that he did not receive actual notice.

Sec. 45. *1. Unless otherwise represented by counsel, a minor, incapacitated person, unborn person or person whose identity or location is unknown and not reasonably ascertainable may be represented by another person who has a substantially similar interest with respect to the question or dispute.*

2. A person may only be represented by another person pursuant to subsection 1 if there is no material conflict of interest between the person and the representative with respect to the question or dispute for which the person is being represented. If a person is represented pursuant to subsection 1, the results of that representation in the question or dispute will be binding on the person.

3. A presumptive remainder beneficiary may represent and bind a beneficiary with a contingent remainder for the same purpose, in the same circumstance and to the same extent as an ascertainable beneficiary may bind a minor, incapacitated person, unborn person or person who cannot be ascertained.

4. If a trust has a minor or incapacitated beneficiary who may not be represented by another person pursuant to this section, the custodial parent or guardian of the estate of the minor or incapacitated beneficiary may represent the minor or incapacitated beneficiary in any judicial proceeding or nonjudicial matter pertaining to the trust. A minor or incapacitated beneficiary may only be represented by a parent or guardian if there is no material conflict of interest between the minor or incapacitated beneficiary and the parent or guardian with respect to the question or dispute. If a minor or incapacitated beneficiary is represented pursuant to this subsection, the results of that representation will be binding on the minor or incapacitated

beneficiary. The representation of a minor or incapacitated beneficiary pursuant to this subsection is binding on an unborn person or a person who cannot be ascertained if:

(a) The unborn person or a person who cannot be ascertained has an interest substantially similar to the minor or incapacitated person; and

(b) There is no material conflict of interest between the unborn person or a person who cannot be ascertained and the minor or incapacitated person with respect to the question or dispute.

5. As used in this section, "presumptive remainder beneficiary" means:

(a) A beneficiary who would receive income or principal of the trust if the trust were to terminate as of that date, regardless of the exercise of a power of appointment; or

(b) A beneficiary who, if the trust does not provide for termination, would receive or be eligible to receive distributions of income or principal of the trust if all beneficiaries of the trust who were receiving or eligible to receive distributions were deceased.

Sec. 46. *1. Unless expressly prohibited by the trust instrument, a trustee may convert a trust into a unitrust if:*

(a) The trustee determines conversion to a unitrust will better enable the trustee to carry out the intent of the settlor and the purpose of the trust;

(b) The trustee gives written notice of his intention to convert the trust to a unitrust, including how the unitrust will operate, the income distributions rate established pursuant to subsection 3 of section 47 of this act and subsection 1 of section 49 of this act, and what initial decisions the trustee will make pursuant to this section, to all beneficiaries who:

(1) Are presently eligible to receive income from the trust;

(2) Would be eligible, if a power of appointment were not exercised, to receive income from the trust if the interest of any beneficiary eligible to receive income terminated immediately before the trustee gives notice; and

(3) Would receive, if a power of appointment were not exercised, a distribution of principal if the trust terminated immediately before the trustee gives notice;

(c) There is at least one beneficiary who meets the requirements of subparagraph (1) of paragraph (b) and at least one beneficiary who meets the requirements of subparagraph (2) of paragraph (b); and

(d) No beneficiary objects, in writing and delivered to the trustee within 60 days of the mailing of the notice, to the conversion of the trust to a unitrust.

2. If a beneficiary timely objects to converting a trust into a unitrust, or if there are no beneficiaries under either subparagraph (1) or (3) of paragraph (b) of subsection 1, the trustee may petition the court to approve the conversion of the trust into a unitrust. The court shall approve the conversion if the court concludes that the conversion will enable the trustee to better carry out the intent of the settlor and the purpose of the trust.

3. A beneficiary may request that a trustee convert a trust into a unitrust. If the trustee does not convert the trust, the beneficiary may petition the court to order the conversion. The court shall direct the conversion if the court concludes that the conversion will enable the trustee to better carry out the intent of the settlor and the purpose of the trust.

4. A trustee, in determining whether and to what extent to convert a trust to a unitrust pursuant to subsection 1, shall consider all factors relevant to the trust and to the beneficiaries, including the factors set forth in subsection 2 of NRS 164.795, as applicable.

5. A conversion of a trust to a unitrust does not affect a term of the trust directing or authorizing the trustee to distribute principal or authorizing a beneficiary to withdraw all or a portion of the principal.

6. A trustee may not convert a trust into a unitrust in any circumstance set forth in subsection 3 of NRS 164.795.

7. If a trustee is prevented from converting a trust because a provision of paragraph (e), (f), (g) or (h) of subsection 3 of NRS 164.795 applies to the trustee and if there is a cotrustee to whom such provisions do not apply, the cotrustee may convert the trust unless the exercise of the power by the remaining trustee is not permitted by the terms of the trust. If all trustees are prevented from converting a trust because a provision of paragraph (e), (f), (g) or (h) of subsection 3 of NRS 164.795 applies to all of the trustees, the trustees may petition the court to direct a conversion.

8. A trustee may permanently, or for a specified period, including a period measured by the life of a person, release the power to convert a trust pursuant to subsection 1 if:

(a) He is uncertain about whether possessing or exercising the power of conversion will cause a result described in paragraphs (a) to (f), inclusive, or (h) of subsection 3 of NRS 164.795; or

(b) He determines that possessing or exercising the power of conversion may or will deprive the trust of a tax benefit or impose a tax burden not described in subsection 3 of NRS 164.795.

9. A trustee or disinterested person who, in good faith, fails to take any action under this section is not liable to any person affected by such action or inaction, regardless of whether the affected person received notice as provided in this section or was under a legal disability at the time of delivery of notice. An affected person's exclusive remedy is to petition the court for an order directing the trustee to convert the trust into a unitrust, to reconvert a unitrust into a trust or to change the percentage used to calculate the unitrust amount.

10. This section shall be construed to pertain to the administration of a trust, and the provisions of this section are available to any trust administered in this State or that is governed by the laws of this State, unless:

(a) The terms of the trust instrument show an intent that a beneficiary is to receive an amount other than a reasonable current return from the trust;

(b) The trust:

(1) Has a guaranteed annuity interest or fixed percentage interest as described in section 170(f)(2)(B) of the Internal Revenue Code;

(2) Is a charitable remainder trust within the meaning of section 664(d) of the Internal Revenue Code;

(3) Is a qualified subchapter S trust within the meaning of section 1361(c) of the Internal Revenue Code;

(4) Is a personal residence trust within the meaning of section 2702(a)(3)(A) of the Internal Revenue Code; or

(5) Is a trust in which one or more settlors retain a qualified interest within the meaning of section 2702(b) of the Internal Revenue Code;

(c) One or more persons to whom the trustee could distribute income have a power of withdrawal over the trust that is not subject to an ascertainable standard or that can be exercised to discharge a duty of support; or

(d) The terms of the trust instrument expressly prohibit the use of the provisions of this section through reference to this section or the trust instrument expressly states the settlor's intent that net income is not calculated as a unitrust amount.

11. As used in this section, "ascertainable standard" means a standard relating to an individual's health, education, support or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code and any regulations of the United States Treasury promulgated thereunder.

Sec. 47. *After a trust is converted into a unitrust:*

1. A trustee shall follow an investment policy seeking a total return for the investments held by the trust whether or not the return is derived from appreciation of capital, from earnings and distributions of capital or from a combination thereof.

2. A trustee shall make regular distributions in accordance with the trust instrument and the provisions of this section.

3. Under the terms of the trust, the term "income" means an annual distribution from the trust equal to not less than 3 percent and not more than 5 percent of the net fair market value of the trust's assets. The value of the trust assets must be determined at the end of the calendar year by averaging, over the preceding 3 years or during the period of the trust's existence, whichever is less, both the income and the principal assets of the trust.

Sec. 48. *1. A trustee of a unitrust may, in the trustee's discretion, determine:*

(a) The effective date of a conversion to a unitrust;

(b) The provisions for prorating a unitrust distribution for a beneficiary whose right to payments commences or ceases during a calendar year;

(c) The frequency of unitrust distributions during a calendar year;

(d) The effect of other payments from or contributions to the trust on the trust's value;

(e) How frequently to value nonliquid assets and whether to estimate the value of nonliquid assets;

(f) Whether to omit from the calculations of the trust property occupied or possessed by a beneficiary; and

(g) Any other matters necessary for the proper functioning of the unitrust.

2. Expenses which would be deducted from income if the trust were not a unitrust may not be deducted from the unitrust distribution. Unless otherwise provided by the trust instrument, the unitrust distribution must be paid from income. To the extent income is insufficient to pay a distribution, the distribution must be paid from realized short-term capital gains. To the extent income and realized short-term capital gains are insufficient, the distribution must be paid from realized long-term capital gains. To the extent none of these funds are sufficient, the distribution must be paid from the principal of the trust.

Sec. 49. *A trustee or a beneficiary of a unitrust may petition the court to:*

1. Select an income distribution percentage different from 3 to 5 percent.

2. Provide for a distribution of net income as would be determined if the trust were not a unitrust, in excess of the unitrust distribution if such distribution is necessary to preserve a tax benefit.

3. Average the value of the trust assets over a period other than 3 years.

4. Reconvert a unitrust to a trust.

Sec. 50. *If two settlors who are married establish a nontestamentary trust jointly, and the trust provides for the pecuniary or fractional division of the community property held by the settlors upon the death of one of the settlors, the trustee has the authority to distribute the community property unless the trust instrument expressly provides otherwise. The trustee may distribute the community property on a non-pro rata basis so long as the fair market value of the distribution is, at the time of the distribution, the same as if the distribution were made pro rata. The provisions of this section do not affect the distribution of assets that are specifically allocated in the trust instrument to be distributed in kind.*

Sec. 51. NRS 164.015 is hereby amended to read as follows:

164.015 1. The court has exclusive jurisdiction of proceedings initiated by the petition of an interested person concerning the internal affairs of a nontestamentary trust ~~[.]~~ *, including a revocable living trust while the settlor is still living if the court determines that the settlor cannot adequately protect his own interests or if the interested person shows that the settlor is incompetent or susceptible to undue influence.* Proceedings which may be maintained under this section are those concerning the administration and distribution of trusts, the declaration of rights and the determination of other matters involving trustees and beneficiaries of trusts, including petitions with respect to a nontestamentary trust for any appropriate relief provided with respect to a testamentary trust in NRS 153.031.

2. A petition under this section may be filed in conjunction with a petition under NRS 164.010 or at any time after the court has assumed jurisdiction under that section.

3. *If an interested person contests the validity of a revocable nontestamentary trust, the interested person is the plaintiff and the trustee is the defendant. The written grounds for contesting the validity of the trust constitutes a pleading and must conform with any rules applicable to pleadings in a civil action.*

4. In a proceeding pursuant to subsection 3, the competency of the settlor to make the trust, the freedom of the settlor from duress, menace, fraud or undue influence at the time of execution of the will, the execution and attestation of the trust instrument, or any other question affecting the validity of the trust is a question of fact and must be tried by the court, subject to the provisions of subsection 5.

5. A court may consolidate the cases if there is a contest of a revocable nontestamentary trust and a contest relating to a will executed on the same date. If a jury is demanded pursuant to NRS 137.020 for the contest of the will, the court may instruct the jury to render an advisory opinion with respect to an issue of fact pursuant to subsection 4 in the contest of the trust.

6. Upon the hearing, the court shall enter such order as it deems appropriate. The order is final and conclusive as to all matters determined and is binding in rem upon the trust estate and upon the interests of all beneficiaries, vested or contingent, except that appeal to the Supreme Court may be taken from the order within 30 days after notice of its entry by filing notice of appeal with the clerk of the district court. The appellant shall mail a copy of the notice to each person who has appeared of record. *If the proceeding was brought pursuant to subsections 3, 4 or 5, the court must also award costs pursuant to chapter 18 of NRS.*

~~[4.]~~ *7.* A proceeding under this section does not result in continuing supervisory proceedings. The administration of the trust must proceed expeditiously in a manner consistent with the terms of the trust, without judicial intervention or the order, approval or other action of any court, unless the jurisdiction of the court is invoked by an interested person or exercised as provided by other law.

~~*[8. As used in this section, "interested person" has the meaning ascribed to it in NRS 132.185 and also includes a named beneficiary under a trust or other instrument and the validity of the trust or other instrument is in question.]*~~

Sec. 52. NRS 164.700 is hereby amended to read as follows:

164.700 As used in NRS 164.700 to 164.925, inclusive ~~[:]~~ *, and sections 46 to 49, inclusive, of this act:*

1. "Fiduciary" means a trustee or, to the extent that NRS 164.780 to 164.925, inclusive, apply to an estate, a personal representative.

2. "Terms of a trust" means the manifestation of the intent of a settlor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding, whether by written or spoken words or by conduct.

3. "Unitrust" means a trust in which a certain percentage of annually assessed fair market value of trust property is paid to a trust beneficiary.

Sec. 53. NRS 164.720 is hereby amended to read as follows:

164.720 1. If a trust has two or more beneficiaries, the trustee shall act impartially in investing and managing the trust property, taking into account any differing interests of the beneficiaries.

2. In exercising the power to adjust under NRS 164.795 *, section 46 of this act* or a discretionary power of administration regarding a matter within the scope of NRS 164.780 to 164.925, inclusive, whether granted by the terms of a trust, a will or NRS 164.780 to 164.925, inclusive, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an intention that the fiduciary shall or may favor one or more of the beneficiaries. A determination in accordance with NRS 164.780 to 164.925, inclusive, is presumed to be fair and reasonable to all the beneficiaries.

Sec. 54. NRS 164.725 is hereby amended to read as follows:

164.725 1. As used in this section, "action" includes a course of action and a decision on whether or not to take action.

2. A trustee may provide a notice of proposed action regarding any matter governed by *section 37 of this act or* NRS 164.700 to 164.925, inclusive.

3. If a trustee provides a notice of proposed action, the trustee shall mail the notice of proposed action to every adult beneficiary 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. A notice of proposed action need not be provided to a person who consents in writing to the proposed action. A consent to a proposed action may be executed before or after the proposed action is taken.

4. The notice of proposed action must state:

(a) That the notice is provided pursuant to this section;

(b) The name and mailing address of the trustee;

(c) The name and telephone number of a person with whom to communicate for additional information regarding the proposed action;

(d) A description of the proposed action and an explanation of the reason for taking the action;

(e) The time within which objection to the proposed action may be made, which must be not less than 30 days after the notice of proposed action is mailed; and

(f) The date on or after which the proposed action is to be taken or is to be effective.

5. A beneficiary may object to the proposed action by mailing a written objection to the trustee at the address and within the time stated in the notice.

6. If no beneficiary entitled to receive notice of a proposed action objects to the proposed action and the other requirements of this section are met, the

trustee is not liable to any present or future beneficiary with respect to that proposed action.

7. If the trustee received a written objection to the proposed action within the period specified in the notice, the trustee or a beneficiary may petition the court for an order to take the action as proposed, take the action with modification or deny the proposed action. A beneficiary who failed to object to the proposed action is not estopped from opposing the proposed action. The burden is on a beneficiary to prove that the proposed action should not be taken or should be modified. *If the trustee takes the proposed action as approved by the court, the trustee is not liable to any beneficiary with respect to that action.*

8. If the trustee decides not to take a proposed action for which notice has been provided, the trustee shall notify the beneficiaries of his decision not to take the proposed action and the reasons for his decision. The trustee is not liable to any present or future beneficiary with respect to the decision not to take the proposed action. A beneficiary may petition the court for an order to take the action as proposed. The burden is on the beneficiary to prove that the proposed action should be taken.

9. If the proposed action for which notice has been proved is an adjustment to principal and income pursuant to NRS 164.795 ~~[,]~~ *or section 46 of this act*, the sole remedy a court may order, pursuant to subsections 7 and 8, is to make the adjustment, to make the adjustment with a modification or to order the adjustment not to be made.

Sec. 55. NRS 164.730 is hereby amended to read as follows:

164.730 1. The provisions of NRS 164.700 to 164.925, inclusive, do not impose or create a duty of a trustee to make an adjustment between principal and income pursuant to the provisions of NRS 164.795 ~~[,]~~ *or section 46 of this act.*

2. A trustee shall not be liable for:

(a) Not considering whether to make such an adjustment; or

(b) Deciding not to make such an adjustment.

Sec. 56. NRS 164.900 is hereby amended to read as follows:

164.900 A trustee shall make the following disbursements from income to the extent that they are not disbursements to which paragraph (b) or (c) of subsection 2 of NRS 164.800 applies:

1. ~~[One-half]~~ *Except as otherwise ordered by the court, one-half* of the regular compensation of the trustee and of any person providing *investment* advisory or custodial services to the trustee *;* ~~[concerning investment, except that the amount of the disbursements from income made pursuant to this subsection must not exceed 5 percent of income for the portion of the accounting period on which such regular compensation is based;]~~

2. ~~[One-half]~~ *Except as otherwise ordered by the court, one-half* of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

3. All the other ordinary expenses incurred in connection with the administration, management or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest; and

4. ~~[Recurring]~~ *All recurring* premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

Sec. 57. NRS 165.160 is hereby amended to read as follows:

165.160 ~~[The]~~ *Except for the provisions of NRS 165.135,* provisions of this chapter shall have no application to nontestamentary trusts unless the settlor shall expressly so declare in the instrument creating the trust. But no expression of intent by any settlor shall affect the jurisdiction of the courts of this state over inventories and accounts of trustees, insofar as such jurisdiction does not depend upon the provisions of this chapter.

Sec. 58. NRS 166.040 is hereby amended to read as follows:

166.040 1. Any person competent by law to execute a will or deed may, by writing only, duly executed, by will, conveyance or other writing, create a spendthrift trust in real, personal or mixed property for the benefit of:

(a) A person other than the settlor;

(b) The settlor if the writing is irrevocable, does not require that any part of the income or principal of the trust be distributed to the settlor, and was not intended to hinder, delay or defraud known creditors; or

(c) Both the settlor and another person if the writing meets the requirements of paragraph (b).

2. For the purposes of this section, a writing:

(a) Is "irrevocable" even if the settlor may prevent a distribution from the trust or holds a testamentary special power of appointment or similar power.

(b) Does not "require" a distribution to the settlor if the trust instrument provides that he may receive it only in the discretion of another person.

3. Except for the power of the settlor to make distributions to himself without the consent of another person, the provisions of this section shall not be construed to prohibit the settlor of a spendthrift trust from holding other powers under the trust, whether or not the settlor is a cotrustee, including, without limitation, the power to remove and replace a trustee, direct trust investments and execute other management powers.

Sec. 59. NRS 166.120 is hereby amended to read as follows:

166.120 1. A spendthrift trust as defined in this chapter restrains and prohibits generally the assignment, alienation, acceleration and anticipation of any interest of the beneficiary under the trust by the voluntary or involuntary act of the beneficiary, or by operation of law or any process or at all. ~~[An exception is declared, however, when the trust does not provide for the application for or the payment to any beneficiary of sums out of capital or corpus or out of rents, profits, income, earnings, or produce of property, lands or personalty. In such cases, the corpus or capital of the trust estate, or the interest of the beneficiary therein, may be anticipated, assigned or aliened~~

~~by the beneficiary voluntarily, but not involuntarily or by operation of law or by any process or involuntarily at all.]~~ The trust estate, or corpus or capital thereof, shall never be assigned, aliened, diminished or impaired by any alienation, transfer or seizure so as to cut off or diminish the payments, or the rents, profits, earnings or income of the trust estate that would otherwise be currently available for the benefit of the beneficiary.

2. Payments by the trustee to the beneficiary ~~[shall]~~ *, whether such payments are mandatory or discretionary, must* be made only to ~~[and into]~~ *or for* the ~~[proper hands]~~ *benefit* of the beneficiary and not by way of acceleration or anticipation, nor to any assignee of the beneficiary, nor to or upon any order, written or oral, given by the beneficiary, whether such assignment or order be the voluntary contractual act of the beneficiary or be made pursuant to or by virtue of any legal process in judgment, execution, attachment, garnishment, bankruptcy or otherwise, or whether it be in connection with any contract, tort or duty. *Any action to enforce the beneficiary's rights, to determine if the beneficiary's rights are subject to execution, to levy an attachment or for any other remedy must be made only in a proceeding commenced pursuant to chapter 153 of NRS, if against a testamentary trust, or NRS 164.010, if against a nontestamentary trust. A court has exclusive jurisdiction over any proceeding pursuant to this section.*

3. The beneficiary shall have no power or capacity to make any disposition whatever of any of the income by his order, voluntary or involuntary, and whether made upon the order or direction of any court or courts, whether of bankruptcy or otherwise; nor shall the interest of the beneficiary be subject to any process of attachment issued against the beneficiary, or to be taken in execution under any form of legal process directed against the beneficiary or against the trustee, or the trust estate, or any part of the income thereof, but the whole of the trust estate and the income of the trust estate shall go to and be applied by the trustee solely for the benefit of the beneficiary, free, clear, and discharged of and from any and all obligations of the beneficiary whatsoever and of all responsibility therefor.

4. The trustee of a spendthrift trust is required to disregard and defeat every assignment or other act, voluntary or involuntary, that is attempted contrary to the provisions of this chapter.

Sec. 60. NRS 166.170 is hereby amended to read as follows:

166.170 1. A person may not bring an action with respect to a transfer of property to a spendthrift trust:

(a) If he is a creditor when the transfer is made, unless the action is commenced within:

(1) Two years after the transfer is made; or

(2) Six months after he discovers or reasonably should have discovered the transfer,

➥ whichever is later.

(b) If he becomes a creditor after the transfer is made, unless the action is commenced within 2 years after the transfer is made.

2. A person shall be deemed to have discovered a transfer at the time a public record is made of the transfer, including, without limitation, the conveyance of real property that is recorded in the office of the county recorder of the county in which the property is located or the filing of a financing statement pursuant to chapter 104 of NRS.

3. *A creditor may not bring an action with respect to transfer of property to a spendthrift trust unless a creditor can prove that the transfer of property was a fraudulent transfer pursuant to chapter 112 of NRS or was otherwise wrongful as to the creditor. In the absence of such proof, the property transferred is not subject to the claims of the creditor. Proof by one creditor that a transfer of property was fraudulent or wrongful does not constitute proof as to any other creditor and proof of a fraudulent or wrongful transfer of property as to one creditor shall not invalidate any other transfer of property.*

4. If property transferred to a spendthrift trust is conveyed to the settlor or to a beneficiary for the purpose of obtaining a loan secured by a mortgage or deed of trust on the property and then reconveyed to the trust, for the purpose of subsection 1, the transfer is disregarded and the reconveyance relates back to the date the property was originally transferred to the trust. The mortgage or deed of trust on the property shall be enforceable against the trust.

5. A person may not bring a claim against an adviser to the settlor or trustee of a spendthrift trust unless the person can show by clear and convincing evidence that the adviser acted in violation of the laws of this State, knowingly and in bad faith, and the adviser's actions directly caused the damages suffered by the person.

6. As used in this section ~~[, "creditor"]~~ *:*

(a) "Adviser" means any person, including, without limitation, an accountant, attorney or investment adviser, who gives advice concerning or was involved in the creation of, transfer of property to, or administration of the spendthrift trust or who participated in the preparation of accountings, tax returns or other reports related to the trust.

(b) "Creditor" has the meaning ascribed to it in subsection 4 of NRS 112.150.

Sec. 61. NRS 21.075 is hereby amended to read as follows:

21.075 1. Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

A court has determined that you owe money to ..... (name of person), the judgment creditor. He has begun the procedure to collect that money by garnishing your wages, bank account and other personal property held by third persons or by taking money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than $15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed $500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. *Regardless of whether a trust contains a spendthrift provision:*

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

~~[17.]~~ *19.* A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

~~[18.]~~ *20.* Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

~~[19.]~~ *21.* Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~[20.]~~ *22.* Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~[21.]~~ *23.* Payments received as restitution for a criminal act.

~~[22.]~~ *24.* Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

~~[23.]~~ *25.* A tax refund received from the earned income credit provided by federal law or a similar state law.

~~[24.]~~ *26.* Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as a proceeding to enforce a judgment for support of a person or a judgment

of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to indigent or elderly persons).

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt, you must complete and file with the clerk of the court a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless you or the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The motion for the hearing to determine the issue of exemption must be filed within 10 days after the affidavit claiming exemption is filed. The hearing to determine whether the property or money is exempt must be held within 10 days after the motion for the hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

Sec. 62. NRS 21.080 is hereby amended to read as follows:

21.080 1. All goods, chattels, money and other property, real and personal, of the judgment debtor, or any interest therein of the judgment debtor not exempt by law, and all property and rights of property seized and held under attachment in the action, are liable to execution. Subject to the provisions of chapter 104 of NRS, shares and interests in any corporation or company, and debts and credits and other property not capable of manual delivery, may be attached in execution in like manner as upon writs of attachments. Gold dust and bullion must be returned by the officer as so much money collected, at its current value, without exposing the same to sale. Until a levy, property is not affected by the execution.

2. This chapter does not authorize the seizure of, or other interference with, any money, thing in action, lands or other property held in spendthrift trust *or in a discretionary or support trust governed by chapter 163 of NRS* for a judgment debtor, or held in such trust for any beneficiary, pursuant to any judgment, order or process of any bankruptcy or other court directed against any such beneficiary or his trustee. This subsection does not apply to the interest of the beneficiary of a trust where the fund so held in trust has proceeded from the beneficiary unless:

(a) The beneficiary is the settlor of the trust; and

(b) The trust is a spendthrift trust that was created in compliance with the provisions of chapter 166 of NRS.

Sec. 63. NRS 21.090 is hereby amended to read as follows:

21.090 1. The following property is exempt from execution, except as otherwise specifically provided in this section or required by federal law:

(a) Private libraries, works of art, musical instruments and jewelry not to exceed $5,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor, and all family pictures and keepsakes.

(b) Necessary household goods, furnishings, electronics, wearing apparel, other personal effects and yard equipment, not to exceed $12,000 in value, belonging to the judgment debtor or a dependent of the judgment debtor, to be selected by the judgment debtor.

(c) Farm trucks, farm stock, farm tools, farm equipment, supplies and seed not to exceed $4,500 in value, belonging to the judgment debtor to be selected by him.

(d) Professional libraries, equipment, supplies, and the tools, inventory, instruments and materials used to carry on the trade or business of the judgment debtor for the support of himself and his family not to exceed $10,000 in value.

(e) The cabin or dwelling of a miner or prospector, his cars, implements and appliances necessary for carrying on any mining operations and his mining claim actually worked by him, not exceeding $4,500 in total value.

(f) Except as otherwise provided in paragraph (p), one vehicle if the judgment debtor's equity does not exceed $15,000 or the creditor is paid an amount equal to any excess above that equity.

(g) For any workweek, 75 percent of the disposable earnings of a judgment debtor during that week, or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater. Except as otherwise provided in paragraphs (o), (s) and (t), the exemption provided in this paragraph does not apply in the case of any order of a court of competent jurisdiction for the support of any person, any order of a court of bankruptcy or of any debt due for any state or federal tax. As used in this paragraph:

(1) "Disposable earnings" means that part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be withheld.

(2) "Earnings" means compensation paid or payable for personal services performed by a judgment debtor in the regular course of business, including, without limitation, compensation designated as income, wages, tips, a salary, a commission or a bonus. The term includes compensation received by a judgment debtor that is in the possession of the judgment debtor, compensation held in accounts maintained in a bank or any other financial institution or, in the case of a receivable, compensation that is due the judgment debtor.

(h) All fire engines, hooks and ladders, with the carts, trucks and carriages, hose, buckets, implements and apparatus thereunto appertaining, and all furniture and uniforms of any fire company or department organized under the laws of this State.

(i) All arms, uniforms and accouterments required by law to be kept by any person, and also one gun, to be selected by the debtor.

(j) All courthouses, jails, public offices and buildings, lots, grounds and personal property, the fixtures, furniture, books, papers and appurtenances belonging and pertaining to the courthouse, jail and public offices belonging to any county of this State, all cemeteries, public squares, parks and places, public buildings, town halls, markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining, owned or held by any town or incorporated city, or dedicated by the town or city to health, ornament or public use, or for the use of any fire or military company organized under the laws of this State and all lots, buildings and other school property owned by a school district and devoted to public school purposes.

(k) All money, benefits, privileges or immunities accruing or in any manner growing out of any life insurance, if the annual premium paid does not exceed $15,000. If the premium exceeds that amount, a similar exemption exists which bears the same proportion to the money, benefits, privileges and immunities so accruing or growing out of the insurance that the $15,000 bears to the whole annual premium paid.

(l) The homestead as provided for by law, including a homestead for which allodial title has been established and not relinquished and for which a waiver executed pursuant to NRS 115.010 is not applicable.

(m) The dwelling of the judgment debtor occupied as a home for himself and family, where the amount of equity held by the judgment debtor in the home does not exceed $550,000 in value and the dwelling is situated upon lands not owned by him.

(n) All money reasonably deposited with a landlord by the judgment debtor to secure an agreement to rent or lease a dwelling that is used by the judgment debtor as his primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

(o) All property in this State of the judgment debtor where the judgment is in favor of any state for failure to pay that state's income tax on benefits received from a pension or other retirement plan.

(p) Any vehicle owned by the judgment debtor for use by him or his dependent that is equipped or modified to provide mobility for a person with a permanent disability.

(q) Any prosthesis or equipment prescribed by a physician or dentist for the judgment debtor or a dependent of the debtor.

(r) Money, not to exceed $500,000 in present value, held in:

(1) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(2) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(3) A cash or deferred arrangement which is a qualified plan pursuant to the Internal Revenue Code;

(4) A trust forming part of a stock bonus, pension or profit-sharing plan which is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(5) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

(s) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

(t) All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

(u) Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

(v) Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(w) Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

(x) Payments received as restitution for a criminal act.

(y) Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

(z) Any personal property not otherwise exempt from execution pursuant to this subsection belonging to the judgment debtor, including, without limitation, the judgment debtor's equity in any property, money, stocks,

bonds or other funds on deposit with a financial institution, not to exceed $1,000 in total value, to be selected by the judgment debtor.

(aa) Any tax refund received by the judgment debtor that is derived from the earned income credit described in section 32 of the Internal Revenue Code, 26 U.S.C. § 32, or a similar credit provided pursuant to a state law.

(bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

(cc) Regardless of whether a trust contains a spendthrift provision:

(1) A beneficial interest in the trust as defined in section 5 of this act if the interest has not been distributed;

(2) A remainder interest in the trust as defined in section 10 of this act if the trust does not indicate that the remainder interest is certain to be distributed within 1 year after the date on which the instrument that creates the remainder interest becomes irrevocable;

(3) A discretionary interest in the trust as described in section 17 of this act if the interest has not been distributed;

(4) A power of appointment in the trust as defined in section 9 of this act regardless of whether the power has been distributed or transferred;

(5) A power listed in section 33 of this act that is held by a trust protector as defined in section 29 of this act or any other person regardless of whether the power has been distributed or transferred;

(6) A reserved power in the trust as defined in section 11 of this act regardless of whether the power has been distributed or transferred; and

(7) Any other property of the trust, that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

(dd) If a trust contains a spendthrift provision:

(1) A mandatory interest in the trust as described in section 17 of this act if the interest has not been distributed;

(2) Notwithstanding a beneficiary's right to enforce a support interest, a support interest in the trust as described in section 17 of this act if the interest has not been distributed; and

(3) Any other property of the trust, that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

2. Except as otherwise provided in NRS 115.010, no article or species of property mentioned in this section is exempt from execution issued upon a judgment to recover for its price, or upon a judgment of foreclosure of a mortgage or other lien thereon.

3. Any exemptions specified in subsection (d) of section 522 of the Bankruptcy Act of 1978, 11 U.S.C. § 522(d), do not apply to property owned by a resident of this State unless conferred also by subsection 1, as limited by subsection 2.

Sec. 64. NRS 31.045 is hereby amended to read as follows:

31.045 1. Execution on the writ of attachment by attaching property of the defendant may occur only if:

(a) The judgment creditor serves the defendant with notice of the execution when the notice of the hearing is served pursuant to NRS 31.013; or

(b) Pursuant to an ex parte hearing, the sheriff serves upon the judgment debtor notice of the execution and a copy of the writ at the same time and in the same manner as set forth in NRS 21.076.

➥ If the attachment occurs pursuant to an ex parte hearing, the clerk of the court shall attach the notice to the writ of attachment at the time the writ is issued.

2. The notice required pursuant to subsection 1 must be substantially in the following form:

NOTICE OF EXECUTION
YOUR PROPERTY IS BEING ATTACHED OR
YOUR WAGES ARE BEING GARNISHED

Plaintiff, ... (name of person), alleges that you owe him money. He has begun the procedure to collect that money. To secure satisfaction of judgment, the court has ordered the garnishment of your wages, bank account or other personal property held by third persons or the taking of money or other property in your possession.

Certain benefits and property owned by you may be exempt from execution and may not be taken from you. The following is a partial list of exemptions:

1. Payments received pursuant to the federal Social Security Act, including, without limitation, retirement and survivors' benefits, supplemental security income benefits and disability insurance benefits.

2. Payments for benefits or the return of contributions under the Public Employees' Retirement System.

3. Payments for public assistance granted through the Division of Welfare and Supportive Services of the Department of Health and Human Services or a local governmental entity.

4. Proceeds from a policy of life insurance.

5. Payments of benefits under a program of industrial insurance.

6. Payments received as disability, illness or unemployment benefits.

7. Payments received as unemployment compensation.

8. Veteran's benefits.

9. A homestead in a dwelling or a mobile home, not to exceed $550,000, unless:

(a) The judgment is for a medical bill, in which case all of the primary dwelling, including a mobile or manufactured home, may be exempt.

(b) Allodial title has been established and not relinquished for the dwelling or mobile home, in which case all of the dwelling or mobile home and its appurtenances are exempt, including the land on which they are located, unless a valid waiver executed pursuant to NRS 115.010 is applicable to the judgment.

10. All money reasonably deposited with a landlord by you to secure an agreement to rent or lease a dwelling that is used by you as your primary residence, except that such money is not exempt with respect to a landlord or his successor in interest who seeks to enforce the terms of the agreement to rent or lease the dwelling.

11. A vehicle, if your equity in the vehicle is less than $15,000.

12. Seventy-five percent of the take-home pay for any workweek, unless the weekly take-home pay is less than 50 times the federal minimum hourly wage, in which case the entire amount may be exempt.

13. Money, not to exceed $500,000 in present value, held in:

(a) An individual retirement arrangement which conforms with the applicable limitations and requirements of section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §§ 408 and 408A;

(b) A written simplified employee pension plan which conforms with the applicable limitations and requirements of section 408 of the Internal Revenue Code, 26 U.S.C. § 408;

(c) A cash or deferred arrangement that is a qualified plan pursuant to the Internal Revenue Code;

(d) A trust forming part of a stock bonus, pension or profit-sharing plan that is a qualified plan pursuant to sections 401 et seq. of the Internal Revenue Code, 26 U.S.C. §§ 401 et seq.; and

(e) A trust forming part of a qualified tuition program pursuant to chapter 353B of NRS, any applicable regulations adopted pursuant to chapter 353B of NRS and section 529 of the Internal Revenue Code, 26 U.S.C. § 529, unless the money is deposited after the entry of a judgment against the purchaser or account owner or the money will not be used by any beneficiary to attend a college or university.

14. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support, education and maintenance of a child, whether collected by the judgment debtor or the State.

15. All money and other benefits paid pursuant to the order of a court of competent jurisdiction for the support and maintenance of a former spouse, including the amount of any arrearages in the payment of such support and maintenance to which the former spouse may be entitled.

16. *Regardless of whether a trust contains a spendthrift provision:*

(a) A present or future interest in the income or principal of a trust, if the interest has not been distributed from the trust;

(b) A remainder interest in the trust whereby a beneficiary of the trust will receive property from the trust outright at some time in the future under certain circumstances;

(c) A discretionary power held by a trustee to determine whether to make a distribution from the trust, if the interest has not been distributed from the trust;

(d) The power to direct dispositions of property in the trust, other than such a power held by a trustee to distribute property to a beneficiary of the trust;

(e) Certain powers held by a trust protector or certain other persons;

(f) Any power held by the person who created the trust; and

(g) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

17. If a trust contains a spendthrift provision:

(a) A mandatory interest in the trust in which the trustee does not have discretion concerning whether to make the distribution from the trust, if the interest has not been distributed from the trust;

(b) A support interest in the trust in which the standard for distribution may be interpreted by the trustee or a court, if the interest has not been distributed from the trust; and

(c) Any other property of the trust that has not been distributed from the trust. Once the property is distributed from the trust, the property is subject to execution.

18. A vehicle for use by you or your dependent which is specially equipped or modified to provide mobility for a person with a permanent disability.

~~[17.]~~ *19.* A prosthesis or any equipment prescribed by a physician or dentist for you or your dependent.

~~[18.]~~ *20.* Payments, in an amount not to exceed $16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by the judgment debtor or by a person upon whom the judgment debtor is dependent at the time the payment is received.

~~[19.]~~ *21.* Payments received as compensation for the wrongful death of a person upon whom the judgment debtor was dependent at the time of the wrongful death, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~[20.]~~ *22.* Payments received as compensation for the loss of future earnings of the judgment debtor or of a person upon whom the judgment debtor is dependent at the time the payment is received, to the extent reasonably necessary for the support of the judgment debtor and any dependent of the judgment debtor.

~~[21.]~~ *23.* Payments received as restitution for a criminal act.

~~[22.]~~ *24.* Personal property, not to exceed $1,000 in total value, if the property is not otherwise exempt from execution.

~~[23.]~~ *25.* A tax refund received from the earned income credit provided by federal law or a similar state law.

~~[24.]~~ *26.* Stock of a corporation described in subsection 2 of NRS 78.746 except as set forth in that section.

➥ These exemptions may not apply in certain cases such as proceedings to enforce a judgment for support of a child or a judgment of foreclosure on a mechanic's lien. You should consult an attorney immediately to assist you in determining whether your property or money is exempt from execution. If you cannot afford an attorney, you may be eligible for assistance through ..... (name of organization in county providing legal services to the indigent or elderly persons).

PROCEDURE FOR CLAIMING EXEMPT PROPERTY

If you believe that the money or property taken from you is exempt or necessary for the support of you or your family, you must file with the clerk of the court on a form provided by the clerk a notarized affidavit claiming the exemption. A copy of the affidavit must be served upon the sheriff and the judgment creditor within 8 days after the notice of execution is mailed. The property must be returned to you within 5 days after you file the affidavit unless the judgment creditor files a motion for a hearing to determine the issue of exemption. If this happens, a hearing will be held to determine whether the property or money is exempt. The hearing must be held within 10 days after the motion for a hearing is filed.

IF YOU DO NOT FILE THE AFFIDAVIT WITHIN THE TIME SPECIFIED, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE JUDGMENT CREDITOR, EVEN IF THE PROPERTY OR MONEY IS EXEMPT.

If you received this notice with a notice of a hearing for attachment and you believe that the money or property which would be taken from you by a writ of attachment is exempt or necessary for the support of you or your family, you are entitled to describe to the court at the hearing why you believe your property is exempt. You may also file a motion with the court for a discharge of the writ of attachment. You may make that motion any time before trial. A hearing will be held on that motion.

IF YOU DO NOT FILE THE MOTION BEFORE THE TRIAL, YOUR PROPERTY MAY BE SOLD AND THE MONEY GIVEN TO THE PLAINTIFF, EVEN IF THE PROPERTY OR MONEY IS EXEMPT OR NECESSARY FOR THE SUPPORT OF YOU OR YOUR FAMILY.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

Senator Care disclosed that an associate from his firm was part of the uncompensated working committee of the trust of the state section of the State Bar that worked on this bill during the interim, not a lobbyist, again without compensation.

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

Thank you Mr. President. The amendment makes various technical changes concerning trusts, none of which substantially alters the original provisions of the bill.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 313.

Bill read second time.

The following amendment was proposed by the Committee on Judiciary:

Amendment No. 140.

"SUMMARY—Revises provisions relating to guardianships. (BDR 13-182)"

"AN ACT relating to guardianship; providing that a court may sanction certain persons who are vexatious litigants; requiring a guardian to maintain certain records for certain periods of time; adopting in part the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act; revising certain notice requirements for guardianship proceedings; revising certain procedural requirements for the appointment of a guardian; revising the authority of certain guardians in certain circumstances; making various other changes relating to guardianships; and providing other matters properly relating thereto."

Legislative Counsel's Digest:

Existing law sets forth the procedures for the appointment of a guardian for a ward, the powers and duties of a guardian and the termination of a guardianship. (Chapter 159 of NRS) This bill: (1) amends various provisions relating to a guardianship; and (2) adopts, in part, the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act promulgated by the Uniform Law Commission.

Section 4 of this bill provides that a court may determine that a petitioner is a vexatious litigant if the petitioner files a petition that is without merit more than once, and may impose sanctions against the petitioner.

Section 5 of this bill requires a guardian to keep records related to the guardianship, including financial records, for a period of 7 years.

Section 6 of this bill provides that if a ward resides with a care provider which is an institution or facility, the care provider shall furnish itemized accountings of all financial activity pertaining to the ward on a quarterly basis and as requested by the guardian.

Sections 7-20 of this bill adopt in part the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, which was promulgated by the Uniform Law Commission in 2007. According to the Uniform Law Commission, because of increasing population mobility, cases involving simultaneous and conflicting jurisdiction over guardianship are increasing, and even when all parties agree, steps such as transferring a guardianship to another state can require that the parties start over anew in the second state. Obtaining recognition of a guardian's authority in another state in order to sell property or to arrange for a residential placement is often impossible. The Uniform Act is intended to address those problems concerning jurisdictional issues. The Uniform Act contains five articles, which are incorporated into sections 7-20 and which address the following topics: (1) Article 1 contains definitions and provisions designed to facilitate cooperation between courts in different states; (2) Article 2 specifies which court has jurisdiction to appoint a guardian, with the objective being to locate jurisdiction in one, and only one, state except in cases of emergency or in situations where an individual owns property located in multiple states; (3) Article 3 specifies a procedure for transferring proceedings from one state to another; (4) Article 4 addresses enforcement of orders in other states; and (5) Article 5 contains boilerplate provisions common to all uniform acts. However, sections 7-20 do not contain, or revise, certain provisions of the Uniform Act.

Sections 25 and 42 of this bill revise the provisions relating to the persons who must receive notice of a guardianship petition. (NRS 159.034, 159.115) Section 29 of this bill revises the information contained in a notice for petition for guardianship to include certain findings about the ward's competence. (NRS 159.044) Sections 26-28 and 30 of this bill amend certain provisions concerning venue and jurisdiction for guardianship proceedings. (NRS 159.037, 159.039, 159.041, 159.0487) Sections 32-34 of this bill revise the requirements concerning the supporting documentation necessary for certain petitions. (NRS 159.052, 159.0523, 159.0525) Sections 37-41 and 43 of this bill revise the authority of a guardian to manage the estate and affairs of a ward. (NRS 159.0755, 159.076, 159.079, 159.0895, 159.113, 159.117) Sections 44-52 of this bill revise certain provisions concerning the sale of property of a ward. (NRS 159.123, 159.134, 159.1425, 159.1435, 159.144, 159.1455, 159.1515, 159.1535, 159.154)

Sections 53 and 54 of this bill exempt certain guardians from service as a juror. (NRS 6.020)

Section 55 of this bill exempts certain guardianship property from a presumption of abandonment for the purposes of the statutory provisions relating to unclaimed property. (NRS 120A.500)

Section 57 of this bill revises the provisions relating to possession of the assets held by a guardian of a decedent. (NRS 143.030)

Section 58 of this bill revises the provisions governing responsibility for the repayment of certain expenses of a ward paid for by a county. (NRS 428.070)

Sections 61-64 of this bill revise provisions concerning the release of a ward who was involuntarily committed to provide that: (1) the facility must notify the guardian before the ward is released; (2) the guardian has discretion to determine where to release the ward; and (3) if the guardian does not determine where to release the ward within a certain period, the facility will release the ward according to its own plan. (NRS 433A.220, 433A.380-433A.400)

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

Section 1. Chapter 159 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 20, inclusive, of this act.

Sec. 2. *"Home state" means the state in which the proposed ward was physically present for at least 6 consecutive months, including any temporary absence from the state, immediately before the filing of a petition for the appointment of a guardian.*

Sec. 3. *"State" means any state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.*

Sec. 4. *1. A court may find that a petitioner is a vexatious litigant if a person, other than the ward:*

(a) Files a petition which is without merit or intended to harass or annoy the guardian; and

(b) Has previously filed pleadings in a guardianship proceeding that were without merit or intended to harass or annoy the guardian.

2. If a court finds a person is a vexatious litigant pursuant to subsection 1, the court may impose sanctions on the petitioner in an amount sufficient to reimburse the estate of the ward for all or part of the expenses incurred by the estate of the ward to defend the petition, to respond to the petition and for any other pecuniary losses which are associated with the petition.

Sec. 5. *A guardian shall maintain all records and documents for each ward whom the guardian has authority over for a period of not less than 7 years after the court terminates the guardianship and shall maintain all financial records related to the guardianship for a period of not less than 7 years after the date of the last financial transaction.*

Sec. 6. *If a ward resides with a care provider that is an institution or facility, the care provider shall furnish to the guardian an itemized accounting of all financial activity pertaining to the ward:*

1. On a quarterly basis; and

2. At any other time, upon the request of the guardian.

Sec. 7. *Sections 7 to 20, inclusive, of this act may be cited as the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act.*

Sec. 8. *A court of this State may treat a foreign country as if it were a state for the purpose of applying sections 7 to 20, inclusive, of this act.*

Sec. 9. *1. A court of this State may communicate with a court of another state concerning a proceeding arising under sections 7 to 20, inclusive, of this act. The court may allow the parties to participate in the communication. Except as otherwise provided in subsection 2, the court shall make a record of the communication. The record may be limited to the fact that the communication occurred.*

2. Courts may communicate concerning schedules, calendars, court records and other administrative matters without making a record.

Sec. 10. *1. In a guardianship proceeding in this State, a court of this State may request the appropriate court of another state to do any of the following:*

(a) Hold an evidentiary hearing;

(b) Order a person in that state to produce evidence or give testimony pursuant to the procedures of that state;

(c) Order that an evaluation or assessment be made of the ward;

(d) Order any appropriate investigation of a person involved in a proceeding;

(e) Forward to the court of this State a certified copy of the transcript or other record of a hearing under paragraph (a) or any other proceeding, any evidence otherwise produced under paragraph (b), and any evaluation or assessment prepared in compliance with an order under paragraph (c) or (d);

(f) Issue any order necessary to ensure the appearance in the proceeding of a person whose presence is necessary for the court to make a determination, including the proposed ward, the ward or the incompetent; and

(g) Issue an order authorizing the release of medical, financial, criminal or other relevant information in that state relating to the ward or proposed ward, including protected health information as defined in 45 C.F.R. § 160.103.

2. If a court of another state in which a guardianship or conservatorship proceeding is pending requests assistance of the kind provided in subsection 1, a court of this State has jurisdiction for the limited purpose of granting the request or making reasonable efforts to comply with the request.

Sec. 11. *1. In a guardianship proceeding, in addition to other procedures that may be available, testimony of a witness who is located in another state may be offered by deposition or other means allowable in this State for testimony taken in another state. The court on its own motion may order that the testimony of a witness be taken in another state and may*

prescribe the manner in which and the terms upon which the testimony is to be taken.

2. In a guardianship proceeding, a court of this State may permit a witness located in another state to be deposed or to testify by telephone or audiovisual or other electronic means. A court of this State shall cooperate with the court of the other state in designating an appropriate location for the deposition or testimony.

3. Documentary evidence transmitted from a court of another state to a court of this State by technological means that do not produce an original writing may not be excluded from evidence on an objection based on NRS 52.235.

Sec. 12. *1. A court of this State has jurisdiction to appoint a guardian if:*

(a) This State is the proposed ward's home state;

(b) The proposed ward holds property within this State and a court of the proposed ward's home state has declined to exercise jurisdiction because this State is a more appropriate forum;

(c) The proposed ward has a significant connection with this State and a court of the proposed ward's home state has declined to exercise jurisdiction because this State is a more appropriate forum; or

(d) The proposed ward does not have a home state.

2. A court of this State lacking jurisdiction under subsection 1 has special jurisdiction to appoint a temporary guardian for a ward:

(a) To facilitate transfer of the guardianship proceedings from another state pursuant to sections 7 to 20, inclusive, of this act.

(b) In an emergency if the ward is physically present in this State, and such temporary guardianship will be terminated at the request of a court of the ward's home state before or after the emergency appointment.

3. Except as otherwise provided in this section, a court that has appointed a guardian consistent with sections 7 to 20, inclusive, of this act has exclusive and continuing jurisdiction over the proceedings until it is terminated by the court pursuant to NRS 159.1905 or 159.191.

Sec. 13. *1. A court of this State having jurisdiction to appoint a guardian may decline to exercise its jurisdiction if it determines at any time that a court of another state is a more appropriate forum.*

2. If a court of this State declines to exercise its jurisdiction under subsection 1, it shall either dismiss or stay the proceedings. The court may impose any condition the court considers just and proper, including the condition that a petition for the appointment of a guardian be filed promptly in another state.

3. In determining whether it is an appropriate forum, the court shall consider all relevant factors, including, without limitation:

(a) Any expressed preference of the ward;

(b) Whether abuse, neglect or exploitation of the ward has occurred or is likely to occur and which state could best protect the ward from the abuse, neglect or exploitation;

(c) The length of time the ward was physically present in or was a legal resident of this State or another state;

(d) The distance of the ward from the court in each state;

(e) The financial circumstances of the ward's estate;

(f) The nature and location of the evidence;

(g) The ability of the court in each state to decide the issue expeditiously and the procedures necessary to present evidence;

(h) The familiarity of the court of each state with the facts and issues in the proceeding; and

(i) If an appointment were made, the court's ability to monitor the conduct of the guardian.

Sec. 14. *1. If at any time a court of this State determines that it acquired jurisdiction to appoint a guardian because of unjustifiable conduct by the guardian or the petitioner, the court may:*

(a) Decline to exercise jurisdiction;

(b) Exercise jurisdiction for the limited purpose of fashioning an appropriate remedy to ensure the health, safety and welfare of the ward or the protection of the ward's property or to prevent a repetition of the unjustifiable conduct, including staying the proceeding until a petition for the appointment of a guardian is filed in a court of another state having jurisdiction; or

(c) Continue to exercise jurisdiction after considering:

(1) The extent to which the ward and all persons required to be notified of the proceedings have acquiesced in the exercise of the court's jurisdiction;

(2) Whether it is a more appropriate forum than the court of any other state; and

(3) Whether the court of any other state would have jurisdiction under factual circumstance in substantial conformity with the jurisdictional standard.

2. If a court of this State determines that it acquired jurisdiction to appoint a guardian because a party seeking to invoke its jurisdiction engaged in unjustifiable conduct, the court may assess against that party necessary and reasonable expenses, including, without limitation, attorney's fees, investigative fees, court costs, communication expenses, witness fees and expenses, and travel expenses.

Sec. 15. *Except for a petition for the appointment of a guardian in an emergency, if a petition for the appointment of a guardian is filed in this State and in another state and neither petition has been dismissed or withdrawn, the following rules apply:*

1. If the court of this State has jurisdiction under sections 7 to 20, inclusive, of this act, it may proceed with the case unless a court of another

state acquires jurisdiction under provisions similar to sections 7 to 20, inclusive, of this act before the appointment.

2. If the court of this State does not have jurisdiction under sections 7 to 20, inclusive, of this act, whether at the time the petition is filed or at any time before the appointment or issuance of the order, the court shall stay the proceeding and communicate with the court of the other state. If the court of the other state has jurisdiction, the court of this State shall dismiss the petition unless the court of the other state determines that the court of this State is a more appropriate forum.

Sec. 16. *1. A guardian appointed in this State may petition the court to transfer the jurisdiction of the guardianship to another state. Notice of the petition must be given to the persons that would be entitled to notice of a petition in this State for the appointment of a guardian.*

2. The court shall issue an order provisionally granting the petition to transfer a guardianship and shall direct the guardian or other interested party to petition for guardianship in the other state if the court finds that:

(a) The ward is physically present in, or is reasonably expected to move permanently to, the other state;

(b) An objection to the transfer has not been made or, if an objection has been made, the objector has not established that the transfer would be contrary to the interests of the ward; and

(c) The plans for care and services for the ward in the other state are reasonable and sufficient.

3. The court shall issue a final order confirming the transfer and terminating the guardianship upon a petition for termination pursuant to NRS 159.1905 or 159.191 and filing of a provisional order accepting the proceeding from the court to which the proceeding is to be transferred.

Sec. 17. *1. To transfer jurisdiction of a guardianship or conservatorship to this State, the guardian, conservator or other interested party must petition the court of this State for guardianship pursuant to sections 7 to 20, inclusive, of this act to accept guardianship in this State. The petition must include a certified copy of the other state's provisional order of transfer and proof that the ward is physically present in, or is reasonably expected to move permanently to, this State.*

2. The court shall issue a provisional order granting a petition filed under subsection 1, unless:

(a) An objection is made and the objector establishes that transfer of the proceeding would be contrary to the interests of the ward; or

(b) The guardian or petitioner is not qualified for appointment as a guardian in this State pursuant to NRS 159.059.

3. The court shall issue a final order granting guardianship upon filing of a final order issued by the other state terminating proceedings in that state and transferring the proceedings to this State.

4. Not later than 90 days after the issuance of a final order accepting transfer of a guardianship or conservatorship, the court shall determine

whether the guardianship or conservatorship needs to be modified to conform to the laws of this State.

5. In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the ward's incapacity and the appointment of the guardian or conservator.

Sec. 18. *If a guardian has been appointed in another state and a petition for the appointment of a guardian is not pending in this State, the guardian appointed in the other state, after giving notice to the appointing court of an intent to register and the reason for registration, may register the guardianship order in this State by filing as a foreign judgment in a court, in any appropriate county of this State:*

1. Certified copies of the order and letters of office; and

2. A copy of the guardian's driver's license, passport or other valid photo identification card in a sealed envelope.

Sec. 19. *1. Upon registration of a guardianship, the guardian may exercise in this State all powers authorized in the order of appointment except as prohibited under the laws of this State, including maintaining actions and proceedings in this State and, if the guardian is not a resident of this State, subject to any conditions imposed upon nonresident parties.*

2. A court of this State may grant any relief available under sections 7 to 20, inclusive, of this act and other law of this State to enforce a registered order.

Sec. 20. *The Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act must be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.*

Sec. 21. NRS 159.013 is hereby amended to read as follows:

159.013 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 159.014 to 159.027, inclusive, *and sections 2 and 3 of this act* have the meanings ascribed to them in those sections.

Sec. 22. NRS 159.017 is hereby amended to read as follows:

159.017 "Guardian" means any person appointed under this chapter as guardian of the person, of the estate, or of the person and estate for any other person, and includes an organization under NRS 662.245 and joint appointees. The term includes , *without limitation,* a special guardian ~~[.]~~ *or, if the context so requires, a person appointed in another state who serves in the same capacity as a guardian in this State.*

Sec. 23. NRS 159.024 is hereby amended to read as follows:

159.024 "Private professional guardian" means a person who receives compensation for services as a guardian to three or more wards who are not related to the ~~[person]~~ *guardian* by blood or marriage. The term does not include:

1. A governmental agency.

2. A public guardian appointed or designated pursuant to the provisions of chapter 253 of NRS.

~~[3. A banking corporation, as defined in NRS 657.016, or an organization permitted to act as fiduciary pursuant to NRS 662.245 if it is appointed as guardian of an estate only.~~

~~4. A trust company, as defined in NRS 669.070.~~

~~5. A court-appointed attorney licensed to practice law in this State.]~~

Sec. 24. NRS 159.025 is hereby amended to read as follows:

159.025 "Proposed ward" means any person for whom proceedings for the appointment of a guardian have been initiated ~~[.]~~ *in this State or, if the context so requires, for whom similar proceedings have been initiated in another state.*

Sec. 25. NRS 159.034 is hereby amended to read as follows:

159.034 1. Except as otherwise provided in this section, by specific statute or as ordered by the court, a petitioner in a guardianship proceeding shall give notice of the time and place of the hearing on the petition to:

(a) Each interested person or the attorney of the interested person;

(b) Any person entitled to notice pursuant to this chapter or his attorney; ~~[and]~~

(c) Any other person who has filed a request for notice in the guardianship proceedings ~~[.]~~ *;*

(d) The proposed guardian, if the petitioner is not the proposed guardian; and

(e) Those persons entitled to notice if a proceeding were brought in the proposed ward's home state.

2. The petitioner shall give notice not later than 10 days before the date set for the hearing:

(a) By mailing a copy of the notice by certified, registered or ordinary first-class mail to the residence, office or post office address of each person required to be notified pursuant to this section;

(b) By personal service; or

(c) In any other manner ordered by the court, upon a showing of good cause.

3. If the address or identity of a person required to be notified of a hearing on a petition pursuant to this section is not known and cannot be ascertained with reasonable diligence, notice must be given:

(a) By publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held at least once every 7 days for 21 consecutive days, the last publication of which must occur not later than 10 days before the date set for the hearing; or

(b) In any other manner ordered by the court, upon a showing of good cause.

4. For good cause shown, the court may waive the requirement of giving notice.

5. A person entitled to notice pursuant to this section may waive such notice. Such a waiver must be in writing and filed with the court.

6. On or before the date set for the hearing, the petitioner shall file with the court proof of giving notice to each person entitled to notice pursuant to this section.

Sec. 26. NRS 159.037 is hereby amended to read as follows:

159.037 1. The venue for the appointment of a guardian *when the ward's home state is this State* must be ~~[:~~

~~(a) The]~~ *the* county where the proposed ward resides . ~~[; or~~

~~(b) If the proposed ward does not reside in this state, any county in which any property of the proposed ward is located, or any county in which the proposed ward is physically present.]~~

2. If the proper venue may be in two or more counties, the county in which the proceeding is first commenced is the proper county in which to continue the proceedings.

3. Upon the filing of a petition showing that the proper venue is inconvenient, a venue other than that provided in subsection 1 may accept the proceeding.

Sec. 27. NRS 159.039 is hereby amended to read as follows:

159.039 1. If proceedings for the appointment of a guardian for the same proposed ward are commenced in more than one county ~~[,]~~ *in this State, and the ward's home state is this State,* they shall be stayed, except in the county where first commenced, until final determination of venue in that county. If the proper venue is finally determined to be in another county, the court shall cause a transcript of the proceedings and all original papers filed therein, all certified by the clerk of the court, to be sent to the clerk of the court of the proper county.

2. A proceeding is considered commenced by the filing of a petition.

3. The proceedings first legally commenced for the appointment of a guardian of the estate or of the person and estate extends to all the property of the proposed ward which is in this state.

Sec. 28. NRS 159.041 is hereby amended to read as follows:

159.041 A court having before it any guardianship matter *for a ward whose home state is this State* may transfer the matter to another county in the interest of the ward or, if not contrary to the interest of the ward, for the convenience of the guardian. A petition for the transfer, setting forth the reasons therefor, may be filed in the guardianship proceeding. If the court is satisfied that the transfer is in the interest of the ward or, if not contrary to the interest of the ward, for the convenience of the guardian, the court shall make an order of transfer and cause a transcript of the proceedings in the matter, all original papers filed in such proceedings and the original bond filed by the guardian, to be certified by the clerk of the court originally hearing the matter and sent to the clerk of the court of the other county. Upon receipt of the transcript, papers and bond, and the filing of them for record, the court of the

other county has complete jurisdiction of the matter, and thereafter all proceedings shall be as though they were commenced in that court.

Sec. 29. NRS 159.044 is hereby amended to read as follows:

159.044 1. Except as otherwise provided in NRS 127.045, a proposed ward, a governmental agency, a nonprofit corporation or any interested person may petition the court for the appointment of a guardian.

2. To the extent the petitioner knows or reasonably may ascertain or obtain, the petition must include, without limitation:

(a) The name and address of the petitioner.

(b) The name, date of birth and current address of the proposed ward.

(c) A copy of one of the following forms of identification of the proposed ward which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

➥ If the information required pursuant to this paragraph is not included with the petition, the information must be provided to the court not later than 120 days after the appointment of a guardian or as otherwise ordered by the court.

(d) If the proposed ward is a minor, the date on which he will attain the age of majority and:

(1) Whether there is a current order concerning custody and, if so, the state in which the order was issued; and

(2) Whether the petitioner anticipates that the proposed ward will need guardianship after attaining the age of majority.

(e) Whether the proposed ward is a resident or nonresident of this State.

(f) The names and addresses of the spouse of the proposed ward and the relatives of the proposed ward who are within the second degree of consanguinity.

(g) The name, date of birth and current address of the proposed guardian. If the proposed guardian is a private professional guardian, the petition must include proof that the guardian meets the requirements of NRS 159.0595. If the proposed guardian is not a private professional guardian, the petition must include a statement that the guardian currently is not receiving compensation for services as a guardian to more than one ward who is not related to the person by blood or marriage.

(h) A copy of one of the following forms of identification of the proposed guardian which must be placed in the records relating to the guardianship proceeding and, except as otherwise provided in NRS 239.0115 or as

otherwise required to carry out a specific statute, maintained in a confidential manner:

(1) A social security number;

(2) A taxpayer identification number;

(3) A valid driver's license number;

(4) A valid identification card number; or

(5) A valid passport number.

(i) Whether the proposed guardian has ever been convicted of a felony and, if so, information concerning the crime for which he was convicted and whether the proposed guardian was placed on probation or parole.

(j) A summary of the reasons why a guardian is needed and recent documentation demonstrating the need for a guardianship. The documentation ~~[may]~~ *must* include, without limitation:

(1) A certificate signed by a physician who is licensed to practice medicine in this State *or who is employed by the Department of Veterans Affairs* stating ~~[the]~~ *:*

(I) The need for a guardian;

(II) Whether the proposed ward presents a danger to himself or others;

(III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;

(IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and

(V) Whether the proposed ward is capable of living independently with or without assistance;

(2) A letter signed by any governmental agency in this State which conducts investigations stating ~~[the]~~ *:*

(I) The need for a guardian;

(II) Whether the proposed ward presents a danger to himself or others;

(III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;

(IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and

(V) Whether the proposed ward is capable of living independently with or without assistance; or

(3) A certificate signed by any other person whom the court finds qualified to execute a certificate stating ~~[the]~~ *:*

(I) The need for a guardian ~~[.]~~ *;*

(II) Whether the proposed ward presents a danger to himself or others;

(III) Whether the proposed ward's attendance at a hearing would be detrimental to the proposed ward;

(IV) Whether the proposed ward would comprehend the reason for a hearing or contribute to the proceeding; and

(V) Whether the proposed ward is capable of living independently with or without assistance.

(k) Whether the appointment of a general or a special guardian is sought.

(l) A general description and the probable value of the property of the proposed ward and any income to which the proposed ward is or will be entitled, if the petition is for the appointment of a guardian of the estate or a special guardian. If any money is paid or is payable to the proposed ward by the United States through the Department of Veterans Affairs, the petition must so state.

(m) The name and address of any person or care provider having the care, custody or control of the proposed ward.

(n) ~~[The]~~ *If the petitioner is not the spouse or natural child of the proposed ward, a declaration explaining the* relationship ~~[, if any,]~~ of the petitioner to the proposed ward *or to the proposed ward's family or friends, if any,* and the interest, if any, of the petitioner in the appointment.

(o) Requests for any of the specific powers set forth in NRS 159.117 to 159.175, inclusive, necessary to enable the guardian to carry out the duties of the guardianship.

(p) ~~[Whether]~~ *If* the guardianship is sought as the result of an investigation of a report of abuse , ~~[or]~~ neglect ~~[that is conducted pursuant to chapter 432B of NRS by an agency which provides child welfare services. As used in this paragraph, "agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.]~~ *or exploitation of the proposed ward, whether the referral was from a law enforcement agency or a state or county agency.*

(q) Whether the proposed ward is a party to any pending criminal or civil litigation.

(r) Whether the guardianship is sought for the purpose of initiating litigation.

(s) Whether the proposed ward has executed a durable power of attorney for health care, a durable power of attorney for financial matters or a written nomination of guardian and, if so, who the named agents are for each document.

Sec. 30. NRS 159.0487 is hereby amended to read as follows:

159.0487 Any court of competent jurisdiction may appoint:

1. Guardians of the person, of the estate, or of the person and estate for ~~[resident]~~ incompetents or ~~[resident]~~ minors ~~[.]~~ *whose home state is this State.*

2. Guardians of the person or of the person and estate for incompetents or minors who, although not residents of this State, are physically present in this State and whose welfare requires such an appointment.

3. Guardians of the estate for nonresident incompetents or nonresident minors who have property within this State.

4. ~~[Guardians of the person, of the estate, or of the person and estate for incompetents or minors who previously have been appointed by the court of another state and who provide proof of the filing of an exemplified copy of the order from the court of the other state that appointed the guardian and a bond issued in this State as ordered by the court of the other state. As used in this subsection, "guardian" includes, without limitation, a conservator.~~

~~5.]~~ Special guardians.

~~[6.]~~ *5.* Guardians ad litem.

Sec. 31. NRS 159.049 is hereby amended to read as follows:

159.049 The court may, without issuing a citation, appoint a guardian for the proposed ward if the ~~[:~~

~~1. Petitioner]~~ *petitioner* is a parent who has sole legal and physical custody of the proposed ward as evidenced by a valid court order or birth certificate and who is seeking the appointment of a guardian for the minor child of the parent. If the proposed ward is a minor who is 14 years of age or older:

~~[(a)]~~ *1.* The petition must be accompanied by the written consent of the minor to the appointment of the guardian; or

~~[(b)]~~ *2.* The minor must consent to the appointment of the guardian in open court.

~~[2. Petitioner is a foreign guardian of a nonresident proposed ward, and the petition is accompanied by:~~

~~(a) An exemplified copy of the record of the appointment of the foreign guardian; and~~

~~(b) Evidence of the existing authority of the foreign guardian.]~~

Sec. 32. NRS 159.052 is hereby amended to read as follows:

159.052 1. A petitioner may request the court to appoint a temporary guardian for a ward who is a minor and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) ~~[Facts which show that the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention;]~~ *Documentation which shows that the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice medicine in this State or who is employed by the Department of Veterans Affairs or a letter signed by any governmental agency in this State which conducts investigations indicating:*

(1) That the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;

(2) Whether the proposed ward presents a danger to himself or others; and

(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; and

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1.

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in ~~[subsections]~~ *subsection* 7 , ~~[and 8,]~~ if the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate

medical attention, the court may extend the temporary guardianship until a general or special guardian is appointed ~~[, but not for more than 30 days.]~~ *pursuant to subsection 8.*

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. ~~[In addition to any other extension granted pursuant to this section, the]~~ *The* court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 33. NRS 159.0523 is hereby amended to read as follows:

159.0523 1. A petitioner may request the court to appoint a temporary guardian for a ward who is an adult and who is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) ~~[Facts which show that the proposed ward:~~

~~(1) Faces a substantial and immediate risk of physical harm or needs immediate medical attention; and~~

~~(2) Lacks capacity to respond to the risk of harm or to obtain the necessary medical attention;]~~ *Documentation which shows the proposed ward faces a substantial and immediate risk of physical harm or needs immediate medical attention and lacks capacity to respond to the risk of harm or obtain the necessary medical attention. Such documentation must include, without limitation* , ~~[:]~~ *a certificate signed by a physician who is licensed to practice medicine in this State* or who is employed by the Department of Veterans Affairs *or a letter signed by any governmental agency in this State which conducts investigations indicating:*

(1) That the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;

(2) Whether the proposed ward presents a danger to himself or others; and

(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation; and

(b) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of physical harm if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; *and*

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph (b) of subsection 1 . ~~[; and~~

~~(c) Finds that the petition required pursuant to subsection 1 is accompanied by:~~

~~(1) A certificate signed by a physician who is licensed to practice in this State which states that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; or~~

~~(2) The affidavit of the petitioner which explains the reasons why the certificate described in subparagraph (1) is not immediately obtainable.]~~

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph (b) of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided

in ~~[subsections]~~ *subsection* 7 , ~~[and 8,]~~ the court may extend the temporary guardianship until a general or special guardian is appointed ~~[, but not for more than 30 days,]~~ *pursuant to subsection 8* if:

(a) The ~~[certificate required by subsection 2 has been filed and the]~~ court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention; ~~[or]~~ *and*

(b) ~~[The certificate required by subsection 2 has not been filed and the court finds by clear and convincing evidence that:~~

~~(1) The proposed ward is unable to respond to a substantial and immediate risk of physical harm or to a need for immediate medical attention;~~

~~(2) Circumstances have prevented the petitioner or temporary guardian from obtaining the certificate required pursuant to subsection 2; and~~

~~(3)]~~ The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of physical harm or to a need for immediate medical attention.

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. ~~[In addition to any other extension granted pursuant to this section, the]~~ *The* court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 34. NRS 159.0525 is hereby amended to read as follows:

159.0525 1. A petitioner may request the court to appoint a temporary guardian for a ward who is unable to respond to a substantial and immediate risk of financial loss. To support the request, the petitioner must set forth in a petition and present to the court under oath:

(a) ~~[Facts which show that the proposed ward:~~

~~(1) Is unable to respond to a substantial and immediate risk of financial loss; and~~

~~(2) Lacks capacity to respond to the risk of loss; and~~

~~(b)]~~ *Documentation which shows that the proposed ward faces a substantial and immediate risk of financial loss and lacks capacity to respond to the risk of loss. Such documentation must include, without limitation, a certificate signed by a physician who is licensed to practice*

medicine in this State or who is employed by the Department of Veterans Affairs or a letter signed by any governmental agency in this State which conducts investigations indicating:

(1) That the proposed ward is unable to respond to a substantial and immediate risk of financial loss;

(2) Whether the proposed ward can live independently with or without assistance or services; and

(3) Whether the proposed ward is or has been subjected to abuse, neglect or exploitation;

(b) A detailed explanation of what risks the proposed ward faces, including, without limitation, termination of utilities or other services because of nonpayment, initiation of eviction or foreclosure proceedings, exploitation or loss of assets as the result of fraud, coercion or undue influence; and

(c) Facts which show that:

(1) The petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 by telephone or in writing before the filing of the petition;

(2) The proposed ward would be exposed to an immediate risk of financial loss if the petitioner were to provide notice to the persons entitled to notice pursuant to NRS 159.047 before the court determines whether to appoint a temporary guardian; or

(3) Giving notice to the persons entitled to notice pursuant to NRS 159.047 is not feasible under the circumstances.

2. The court may appoint a temporary guardian to serve for 10 days if the court:

(a) Finds reasonable cause to believe that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; *and*

(b) Is satisfied that the petitioner has tried in good faith to notify the persons entitled to notice pursuant to NRS 159.047 or that giving notice to those persons is not feasible under the circumstances, or determines that such notice is not required pursuant to subparagraph (2) of paragraph ~~[(b)]~~ *(c)* of subsection 1 . ~~[; and~~

~~(c) For a proposed ward who is an adult, finds that the petition required pursuant to subsection 1 is accompanied by:~~

~~(1) A certificate signed by a physician who is licensed to practice in this State which states that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; or~~

~~(2) The affidavit of the petitioner which explains the reasons why the certificate described in subparagraph (1) is not immediately obtainable.]~~

3. Except as otherwise provided in subsection 4, after the appointment of a temporary guardian, the petitioner shall attempt in good faith to notify the persons entitled to notice pursuant to NRS 159.047, including, without limitation, notice of any hearing to extend the temporary guardianship. If the

petitioner fails to make such an effort, the court may terminate the temporary guardianship.

4. If, before the appointment of a temporary guardian, the court determined that advance notice was not required pursuant to subparagraph (2) of paragraph ~~[(b)]~~ *(c)* of subsection 1, the petitioner shall notify the persons entitled to notice pursuant to NRS 159.047 without undue delay, but not later than 48 hours after the appointment of the temporary guardian or not later than 48 hours after the petitioner discovers the existence, identity and location of the persons entitled to notice pursuant to that section. If the petitioner fails to provide such notice, the court may terminate the temporary guardianship.

5. Not later than 10 days after the date of the appointment of a temporary guardian pursuant to subsection 2, the court shall hold a hearing to determine the need to extend the temporary guardianship. Except as otherwise provided in ~~[subsections]~~ *subsection* 7 , ~~[and 8, if the proposed ward is a minor and the court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss,]~~ the court may extend the temporary guardianship until a general or special guardian is appointed ~~[, but not for more than 30 days. Except as otherwise provided in subsection 7, if the proposed ward is an adult, the court may extend the temporary guardianship until a general or special guardian is appointed, but not for more than 30 days,]~~ *pursuant to subsection 8* if:

(a) The ~~[certificate required by subsection 2 has been filed and the]~~ court finds by clear and convincing evidence that the proposed ward is unable to respond to a substantial and immediate risk of financial loss; ~~[or]~~ *and*

(b) ~~[The certificate required by subsection 2 has not been filed and the court finds by clear and convincing evidence that:~~

~~(1) The proposed ward is unable to respond to a substantial and immediate risk of financial loss;~~

~~(2) Circumstances have prevented the petitioner or temporary guardian from obtaining the certificate required pursuant to subsection 2; and~~

~~(3)]~~ The extension of the temporary guardianship is necessary and in the best interests of the proposed ward.

6. If the court appoints a temporary guardian or extends the temporary guardianship pursuant to this section, the court shall limit the powers of the temporary guardian to those necessary to respond to the substantial and immediate risk of financial loss ~~[.]~~ *, specifically limiting the temporary guardian's authority to take possession of, close or have access to any accounts of the ward or to sell or dispose of tangible personal property of the ward to only that authority as needed to provide for the ward's basic living expenses until a general or special guardian can be appointed. The court may freeze any or all of the ward's accounts to protect such accounts from loss.*

7. The court may not extend a temporary guardianship pursuant to subsection 5 beyond the initial period of 10 days unless the petitioner demonstrates that:

(a) The provisions of NRS 159.0475 have been satisfied; or

(b) Notice by publication pursuant to N.R.C.P. 4(e) is currently being undertaken.

8. ~~[In addition to any other extension granted pursuant to this section, the]~~ *The* court may extend the temporary guardianship, for good cause shown, for not more than two successive 60-day periods, except that the court shall not cause the temporary guardianship to continue longer than 5 months unless extraordinary circumstances are shown.

Sec. 35. NRS 159.059 is hereby amended to read as follows:

159.059 Except as otherwise provided in NRS 159.0595, any qualified person or entity that the court finds suitable may serve as a guardian. A person is not qualified to serve as a guardian who:

1. Is an incompetent.

2. Is a minor.

3. Has been convicted of a felony relating to the position of a guardian, unless the court finds that it is in the best interests of the ward to appoint the convicted felon as the guardian of the ward.

4. Has been suspended for misconduct or disbarred from:

(a) The practice of law;

(b) The practice of accounting; or

(c) Any other profession which:

(1) Involves or may involve the management or sale of money, investments, securities or real property; and

(2) Requires licensure in this State or any other state,

➥ during the period of the suspension or disbarment.

5. Is a nonresident of this State and:

(a) ~~[Is not a foreign guardian of a nonresident proposed ward pursuant to subsection 2 of NRS 159.049;~~

~~(b)]~~ Has not associated as a coguardian, a resident of this State or a banking corporation whose principal place of business is in this State; and

~~[(c)]~~ *(b)* Is not a petitioner in the guardianship proceeding.

6. Has been judicially determined, by clear and convincing evidence, to have committed abuse, neglect or exploitation of a child, spouse, parent or other adult, unless the court finds that it is in the best interests of the ward to appoint the person as the guardian of the ward.

Sec. 36. NRS 159.0595 is hereby amended to read as follows:

159.0595 1. A private professional guardian, if a person, must be qualified to serve as a guardian pursuant to NRS 159.059 and must be a ~~[registered guardian or master guardian unless a hearing is held and the court finds that good cause exists to waive the requirement that the private professional guardian be a registered guardian or master]~~ *certified* guardian.

2. A private professional guardian, if an entity, must be qualified to serve as a guardian pursuant to NRS 159.059 and must have a ~~[registered guardian or master]~~ *certified* guardian involved in the day-to-day operation or management of the entity . ~~[unless a hearing is held and the court finds that good cause exists to waive the requirement that the private professional guardian have a registered guardian or master guardian involved in the day-to-day operation or management of the entity.]~~

3. As used in this section:

(a) *"Certified guardian" means a person who is certified by the Center for Guardianship Certification or any successor organization.*

(b) "Entity" includes, without limitation, a corporation, whether or not for profit, a limited-liability company and a partnership.

~~[(b) "Master guardian" means a person who is certified by the National Guardianship Foundation or any successor organization as a master guardian.]~~

(c) "Person" means a natural person.

~~[(d) "Registered guardian" means a person who is certified by the National Guardianship Foundation or any successor organization as a registered guardian.]~~

Sec. 37. NRS 159.0755 is hereby amended to read as follows:

159.0755 If, at the time of the appointment of the guardian or thereafter, the estate of a ward consists of personal property having a value not exceeding by more than ~~[$5,000]~~ *$10,000* the aggregate amount of unpaid expenses of administration of the guardianship estate and claims against the estate, the guardian of the estate, with prior approval of the court by order, may pay those expenses and claims from the estate and deliver all the remaining personal property to such person as the court may designate in the order, to be held, invested or used as ordered by the court. The recipient of the property so delivered shall give a receipt therefor to the guardian. The receipt is a release and acquittance to the guardian as to the property so delivered. The guardian shall file in the proceeding proper receipts or other evidence satisfactory to the court showing the delivery, and the guardian is released from his trust and his bond exonerated.

Sec. 38. NRS 159.076 is hereby amended to read as follows:

159.076 1. The court may grant a summary administration if, at any time, it appears to the court that after payment of all claims and expenses of the guardianship the value of the ward's property does not exceed ~~[$5,000.]~~ *$10,000.*

2. If the court grants a summary administration, the court may:

(a) Authorize the guardian of the estate or special guardian who is authorized to manage the ward's property to convert the property to cash and sell any of the property, with or without notice, as the court may direct. After the payment of all claims and the expenses of the guardianship, the guardian shall deposit the money in savings accounts or invest the money as provided in NRS 159.117, and hold the investment and all interest, issues, dividends

and profits for the benefit of the ward. The court may dispense with annual accountings and all other proceedings required by this chapter.

(b) If the ward is a minor, terminate the guardianship of the estate and direct the guardian to deliver the ward's property to the custodial parent or parents, guardian or custodian of the minor to hold, invest or use as the court may order.

3. Whether the court grants a summary administration at the time the guardianship is established or at any other time, the guardian shall file an inventory and record of value with the court.

4. If, at any time, the net value of the estate of the ward exceeds ~~[$5,000:]~~ *$10,000:*

(a) The guardian shall file an amended inventory and accounting with the court;

(b) The guardian shall file annual accountings; and

(c) The court may require the guardian to post a bond.

Sec. 39. NRS 159.079 is hereby amended to read as follows:

159.079 1. Except as otherwise ordered by the court, a guardian of the person has the care, custody and control of the person of the ward, and has the authority and, subject to subsection 2, shall perform the duties necessary for the proper care, maintenance, education and support of the ward, including *, without limitation,* the following:

(a) Supplying the ward with food, clothing, shelter and all incidental necessaries ~~[.]~~ *, including locating an appropriate residence for the ward.*

(b) Authorizing medical, surgical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the ward.

(c) Seeing that the ward is properly trained and educated and that the ward has the opportunity to learn a trade, occupation or profession.

2. In the performance of the duties enumerated in subsection 1 by a guardian of the person, due regard must be given to the extent of the estate of the ward. A guardian of the person is not required to incur expenses on behalf of the ward except to the extent that the estate of the ward is sufficient to reimburse the guardian.

3. *A guardian of the person is the ward's personal representative for purposes of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any applicable regulations. The guardian of the person has authority to obtain information from any government agency, medical provider, business, creditor or third party who may have information pertaining to the ward's health care or health insurance.*

4. A guardian of the person may establish and change the residence of the ward at any place within this State without the permission of the court. The guardian shall select the least restrictive appropriate residence which is available and necessary to meet the needs of the ward and which is financially feasible.

5. A guardian of the person shall petition the court for an order authorizing the guardian to change the residence of the ward to a location

outside of this State. The guardian must show that the placement outside of this State is in the best interest of the ward or that there is no appropriate residence available for the ward in this State. The court shall retain jurisdiction over the guardianship unless the guardian files for termination of the guardianship pursuant to NRS 159.1905 or 159.191 or the jurisdiction of the guardianship is transferred to the other state.

6. This section does not relieve a parent or other person of any duty required by law to provide for the care, support and maintenance of any dependent.

Sec. 40. NRS 159.0895 is hereby amended to read as follows:

159.0895 1. The guardian may retain assets for the anticipated expense of the ward's funeral and the disposal of his remains. Of the amount so retained, ~~[$1,500]~~ *$3,000* is exempt from all claims, including those of this state.

2. The guardian may place assets so retained in a pooled account or trust. If the assets are invested in a savings account or other financial account, they are not subject to disposition as unclaimed property during the lifetime of the ward.

3. Assets so retained may be disbursed for the ward's funeral or the disposal of his remains without prior authorization of the court. An amount not so disbursed becomes part of the ward's estate.

Sec. 41. NRS 159.113 is hereby amended to read as follows:

159.113 1. Before taking any of the following actions, the guardian *of the estate* shall petition the court for an order authorizing the guardian to:

(a) Invest the property of the ward pursuant to NRS 159.117.

(b) Continue the business of the ward pursuant to NRS 159.119.

(c) Borrow money for the ward pursuant to NRS 159.121.

(d) Except as otherwise provided in NRS 159.079, enter into contracts for the ward or complete the performance of contracts of the ward pursuant to NRS 159.123.

(e) Make gifts from the ward's estate or make expenditures for the ward's relatives pursuant to NRS 159.125.

(f) Sell, lease or place in trust any property of the ward pursuant to NRS 159.127.

(g) Exchange or partition the ward's property pursuant to NRS 159.175.

(h) Release the power of the ward as trustee, personal representative or custodian for a minor or guardian.

(i) Exercise or release the power of the ward as a donee of a power of appointment.

(j) ~~[Change the state of residence or domicile of the ward.~~

~~(k)]~~ Exercise the right of the ward to take under or against a will.

~~[(l)]~~ *(k)* Transfer to a trust created by the ward any property unintentionally omitted from the trust.

~~[(m)]~~ *(l)* Submit a revocable trust to the jurisdiction of the court if:

(1) The ward or the spouse of the ward, or both, are the grantors and sole beneficiaries of the income of the trust; or

(2) The trust was created by the court.

~~[(n)]~~ *(m)* Pay any claim by the Department of Health and Human Services to recover benefits for Medicaid correctly paid to or on behalf of the ward.

(n) Transfer money in a minor ward's blocked account to the Nevada Higher Education Prepaid Tuition Trust Fund created pursuant to NRS 353B.140.

2. Before taking any of the following actions, unless the guardian has been otherwise ordered by the court to petition the court for permission to take specified actions or make specified decisions in addition to those described in subsection 1, the guardian may petition the court for an order authorizing the guardian to:

(a) Obtain advice, instructions and approval of any other proposed act of the guardian relating to the ward's property.

(b) Take any other action which the guardian deems would be in the best interests of the ward.

3. The petition must be signed by the guardian and contain:

(a) The name, age, residence and address of the ward.

(b) A concise statement as to the condition of the ward's estate.

(c) A concise statement as to the advantage to the ward of or the necessity for the proposed action.

(d) The terms and conditions of any proposed sale, lease, partition, trust, exchange or investment, and a specific description of any property involved.

4. Any of the matters set forth in subsection 1 may be consolidated in one petition, and the court may enter one order authorizing or directing the guardian to do one or more of those acts.

5. A petition filed pursuant to paragraphs (b) and (d) of subsection 1 may be consolidated in and filed with the petition for the appointment of the guardian, and if the guardian is appointed, the court may enter additional orders authorizing the guardian to continue the business of the ward, enter contracts for the ward or complete contracts of the ward.

Sec. 42. NRS 159.115 is hereby amended to read as follows:

159.115 1. Upon the filing of any petition under NRS 159.078 or 159.113, or any account, notice must be given:

(a) At least 10 days before the date set for the hearing, by mailing a copy of the notice by regular mail to the residence, office or post office address of each person required to be notified pursuant to subsection 3;

(b) At least 10 days before the date set for the hearing, by personal service;

(c) If the address or identity of the person is not known and cannot be ascertained with reasonable diligence, by publishing a copy of the notice in a newspaper of general circulation in the county where the hearing is to be held, the last publication of which must be published at least 10 days before the date set for the hearing; or

(d) In any other manner ordered by the court, for good cause shown.

2. The notice must:

(a) Give the name of the ward.

(b) Give the name of the petitioner.

(c) Give the date, time and place of the hearing.

(d) State the nature of the petition.

(e) Refer to the petition for further particulars, and notify all persons interested to appear at the time and place mentioned in the notice and show cause why the court order should not be made.

3. At least 10 days before the date set for the hearing, the petitioner shall cause a copy of the notice to be mailed to the following:

(a) Any minor ward who is 14 years of age or older or the parent or legal guardian of any minor ward who is less than 14 years of age.

(b) The spouse of the ward and other heirs of the ward who are related within the second degree of consanguinity so far as known to the petitioner.

(c) The guardian of the person of the ward, if the guardian is not the petitioner.

(d) Any person or care provider ~~[having the care, custody or control of]~~ *who is providing care for* the ward ~~[.]~~ *, except that if the person or care provider is not related to the ward, such person or provider must not be given copies of any inventory or accounting.*

(e) Any office of the Department of Veterans Affairs in this State if the ward is receiving any payments or benefits through the Department of Veterans Affairs.

(f) The Director of the Department of Health and Human Services if the ward has received or is receiving any benefits from Medicaid.

(g) Any other interested person or his attorney who has filed a request for notice in the guardianship proceeding and served a copy of the request upon the guardian. The request for notice must state the interest of the person filing the request, and his name and address, or that of his attorney. If the notice so requests, copies of all petitions and accounts must be mailed to the interested person or his attorney.

4. An interested person who is entitled to notice pursuant to subsection 3 may, in writing, waive notice of the hearing of a petition.

5. Proof of giving notice must be:

(a) Made on or before the date set for the hearing; and

(b) Filed in the guardianship proceeding.

Sec. 43. NRS 159.117 is hereby amended to read as follows:

159.117 1. Upon approval of the court by order, a guardian of the estate may:

(a) Invest the property of the ward, make loans and accept security therefor, in the manner and to the extent authorized by the court.

(b) Exercise options of the ward to purchase or exchange securities or other property.

2. A guardian of the estate may, without securing the prior approval of the court, invest the property of the ward in the following:

(a) Savings accounts in any bank, credit union or savings and loan association in this State, to the extent that the deposits are insured by the Federal Deposit Insurance Corporation, the National Credit Union Share Insurance Fund or a private insurer approved pursuant to NRS 678.755.

(b) Interest-bearing obligations of or fully guaranteed by the United States.

(c) Interest-bearing obligations of the United States Postal Service.

(d) Interest-bearing obligations of the Federal National Mortgage Association.

(e) Interest-bearing general obligations of this State.

(f) Interest-bearing general obligations of any county, city or school district of this State.

(g) Money market mutual funds which are invested only in those instruments listed in paragraphs (a) to (f), inclusive.

3. A guardian of the estate for two or more wards may invest the property of two or more of the wards in property in which each ward whose property is so invested has an undivided interest. The guardian shall keep a separate record showing the interest of each ward in the investment and in the income, profits or proceeds therefrom.

4. Upon approval of the court, for a period authorized by the court, a guardian of the estate may maintain the assets of the ward in the manner in which the ward had invested the assets before the ward's incapacity.

5. A guardian of the estate may access or manage a guardianship account via the Internet on a secured website established by the bank, credit union or broker holding the account.

Sec. 44. NRS 159.123 is hereby amended to read as follows:

159.123 If a ward for whom a guardian of the estate is appointed was, at the time of the appointment, a party to a contract which has not been fully performed, and which was made by the ward while not under any legal disability, the guardian of the estate, with prior approval of the court by order, may complete the performance of such contract. If such contract requires the conveyance of any real or personal property, or any interest in such property, the court may authorize the guardian to convey the interest and estate of the ward in the property, and the effect of such conveyance shall be the same as though made by the ward while not under legal disability. *If the contract requires a sale, no notice of sale is required under this section unless otherwise ordered by the court.*

Sec. 45. NRS 159.134 is hereby amended to read as follows:

159.134 1. All sales of real property of a ward must be:

(a) Reported to the court; and

(b) Confirmed by the court before the title to the real property passes to the purchaser.

2. The report and a petition for confirmation of the sale must be filed with the court not later than 30 days after the date of each sale.

3. The court shall set the date of the hearing and give notice of the hearing in the manner required pursuant to NRS 159.115 or as the court may order.

4. An interested person may file written objections to the confirmation of the sale. If such objections are filed, the court shall conduct a hearing regarding those objections during which the interested person may offer witnesses in support of the objections.

5. Before the court confirms a sale, the court must find that notice of the sale was given in the manner required pursuant to NRS 159.1425, 159.1435 and 159.144 ~~[.]~~ *, unless the sale was exempt from notice pursuant to NRS 159.123.*

Sec. 46. NRS 159.1425 is hereby amended to read as follows:

159.1425 1. Except as otherwise provided in this section and except for a sale pursuant to NRS *159.123 or* 159.142, a guardian may sell the real property of a ward only after notice of the sale is published in:

(a) A newspaper that is published in the county in which the property, or some portion of the property, is located; or

(b) If a newspaper is not published in that county:

(1) In a newspaper of general circulation in the county; or

(2) In such other newspaper as the court orders.

2. Except as otherwise provided in this section and except for a sale of real property pursuant to NRS *159.123 or* 159.142:

(a) The notice of a public auction for the sale of real property must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.

(b) The notice of a private sale must be published not less than three times before the date on which offers will be accepted, over a period of 14 days and 7 days apart.

3. For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

4. The court may waive the requirement of publication pursuant to this section if:

(a) The guardian is the sole devisee or heir of the estate; or

(b) All devisees or heirs of the estate consent to the waiver in writing.

5. Publication for the sale of real property is not required pursuant to this section if the property to be sold is reasonably believed to have a value of ~~[$5,000]~~ *$10,000* or less. In lieu of publication, the guardian shall post notice of the sale in three of the most public places in the county in which the property, or some portion of the property, is located for at least 14 days before:

(a) The date of the sale at public auction; or

(b) The date on which offers will be accepted for a private sale.

6. Any notice published or posted pursuant to this section must include, without limitation:

(a) For a public auction:

(1) A description of the real property which reasonably identifies the property to be sold; and

(2) The date, time and location of the auction.

(b) For a private sale:

(1) A description of the real property which reasonably identifies the property to be sold; and

(2) The date, time and location that offers will be accepted.

Sec. 47. NRS 159.1435 is hereby amended to read as follows:

159.1435 1. Except for a sale pursuant to NRS *159.123 or* 159.142, a public auction for the sale of real property must be held:

(a) In the county in which the property is located or, if the real property is located in two or more counties, in either county;

(b) Between the hours of 9 a.m. and 5 p.m.; and

(c) On the date specified in the notice, unless the sale is postponed.

2. If, on or before the date and time set for the public auction, the guardian determines that the auction should be postponed:

(a) The auction may be postponed for not more than 3 months after the date first set for the auction; and

(b) Notice of the postponement must be given by a public declaration at the place first set for the sale on the date and time that was set for the sale.

Sec. 48. NRS 159.144 is hereby amended to read as follows:

159.144 1. Except for the sale of real property pursuant to NRS *159.123 or* 159.142, a sale of real property of a guardianship estate at a private sale:

(a) Must not occur before the date stated in the notice.

(b) Except as otherwise provided in this paragraph, must not occur sooner than 14 days after the date of the first publication or posting of the notice. For good cause shown, the court may shorten the time in which the sale may occur to not sooner than 8 days after the date of the first publication or posting of the notice. If the court so orders, the notice of the sale and the sale may be made to correspond with the court order.

(c) Must occur not later than 1 year after the date stated in the notice.

2. The offers made in a private sale:

(a) Must be in writing; and

(b) May be delivered to the place designated in the notice or to the guardian at any time:

(1) After the date of the first publication or posting of the notice; and

(2) Before the date on which the sale is to occur.

Sec. 49. NRS 159.1455 is hereby amended to read as follows:

159.1455 1. Except as otherwise provided in subsection 2, the court shall not confirm a sale of real property of a guardianship estate at a private sale unless:

(a) The court is satisfied that the amount offered represents the fair market value of the property to be sold; and

(b) ~~[The]~~ *Except for a sale of real property pursuant to NRS 159.123, the* real property has been appraised within 1 year before the date of the sale. If the real property has not been appraised within this period, a new appraisal must be conducted pursuant to NRS 159.086 and 159.0865 at any time before the sale or confirmation by the court of the sale.

2. The court may waive the requirement of an appraisal and allow the guardian to rely on the assessed value of the real property for purposes of taxation in obtaining confirmation by the court of the sale.

Sec. 50. NRS 159.1515 is hereby amended to read as follows:

159.1515 1. A guardian may sell perishable property and other personal property of the ward without notice, and title to the property passes without confirmation by the court if the property:

(a) Will depreciate in value if not disposed of promptly; ~~[or]~~

(b) Will incur loss or expense by being kept ~~[.]~~ *; or*

(c) Is less than $10,000 net value after deduction of all liens against the property.

2. The guardian is responsible for the actual value of the personal property unless the guardian obtains confirmation by the court of the sale.

Sec. 51. NRS 159.1535 is hereby amended to read as follows:

159.1535 1. Except as otherwise provided in NRS 159.1515 and 159.152, a guardian may sell the personal property of the ward only after notice of the sale is published in:

(a) A newspaper that is published in the county in which the property, or some portion of the property, is located; or

(b) If a newspaper is not published in that county:

(1) In a newspaper of general circulation in the county; or

(2) In such other newspaper as the court orders.

2. Except as otherwise provided in this section:

(a) The notice of a public sale *of a mobile home, manufactured home, vehicle, airplane, boat or personal property item which does not require transfer of title or registration and which is greater than $10,000 in net value* must be published not less than three times before the date of the sale, over a period of 14 days and 7 days apart.

(b) The notice of a private sale *of a mobile home, manufactured home, vehicle, airplane, boat or personal property item which does not require transfer of title or registration and which is greater than $10,000 in net value* must be published not less than three times before the date on which offers will be accepted, over a period of 14 days and 7 days apart.

3. *The notice of a public or private sale of household furnishings, clothing, artwork, jewelry, collectibles and other personal property which does not require transfer of title or registration and which is greater than $10,000 in net value must be published not less than one time, the publication being not less than 8 days before the sale.*

4. For good cause shown, the court may order fewer publications and shorten the time of notice, but must not shorten the time of notice to less than 8 days.

~~[4.]~~ *5.* The notice must include, without limitation:

(a) For a public sale:

(1) A description of the personal property to be sold; and

(2) The date, time and location of the sale.

(b) For a private sale:

(1) A description of the personal property to be sold; and

(2) The date, time and location that offers will be accepted.

(c) For a sale on an appropriate auction website on the Internet:

(1) A description of the personal property to be sold;

(2) The date the personal property will be listed; and

(3) The Internet address of the website on which the sale will be posted.

Sec. 52. NRS 159.154 is hereby amended to read as follows:

159.154 1. The guardian may sell the personal property of a ward by public sale at:

(a) The residence of the ward; *or*

(b) ~~[The courthouse door; or~~

~~(c)]~~ Any other location designated by the guardian.

2. The guardian may sell the personal property by public sale only if the property is made available for inspection at the time of the sale ~~[, unless the court orders otherwise.]~~ *or photographs of the personal property are posted on an appropriate auction website on the Internet.*

3. Personal property may be sold at a public or private sale for cash or upon credit.

Sec. 53. NRS 6.020 is hereby amended to read as follows:

6.020 1. Except as otherwise provided in subsections 2 and 3 and NRS 67.050, upon satisfactory proof, made by affidavit or otherwise, the following-named persons, and no others, are exempt from service as grand or trial jurors:

(a) While the Legislature is in session, any member of the Legislature or any employee of the Legislature or the Legislative Counsel Bureau;

(b) Any person who has a fictitious address pursuant to NRS 217.462 to 217.471, inclusive; ~~[and]~~

(c) Any police officer as defined in NRS 617.135 ~~[.]~~ *; and*

(d) Any person serving as a guardian for three or more persons.

2. All persons of the age of 70 years or over are exempt from serving as grand or trial jurors. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is over the age of 70 years, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.

3. A person who is the age of 65 years or over who lives 65 miles or more from the court is exempt from serving as a grand or trial juror. Whenever it appears to the satisfaction of the court, by affidavit or otherwise,

that a juror is the age of 65 years or over and lives 65 miles or more from the court, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.

Sec. 54. NRS 6.020 is hereby amended to read as follows:

6.020 1. Except as otherwise provided in subsections 2 and 3 and NRS 67.050, upon satisfactory proof, made by affidavit or otherwise, the following-named persons, and no others, are exempt from service as grand or trial jurors:

(a) While the Legislature is in session, any member of the Legislature or any employee of the Legislature or the Legislative Counsel Bureau; ~~[and]~~

(b) Any person who has a fictitious address pursuant to NRS 217.462 to 217.471, inclusive; *and*

(c) Any person serving as a guardian for three or more persons.

2. All persons of the age of 70 years or over are exempt from serving as grand or trial jurors. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is over the age of 70 years, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.

3. A person who is the age of 65 years or over who lives 65 miles or more from the court is exempt from serving as a grand or trial juror. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is the age of 65 years or over and lives 65 miles or more from the court, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.

Sec. 55. NRS 120A.500 is hereby amended to read as follows:

120A.500 1. ~~[Property]~~ *Except as otherwise provided in subsection 6, property* is presumed abandoned if it is unclaimed by the apparent owner during the time set forth below for the particular property:

(a) A traveler's check, 15 years after issuance;

(b) A money order, 7 years after issuance;

(c) Any stock or other equity interest in a business association or financial organization, including a security entitlement under NRS 104.8101 to 104.8511, inclusive, 3 years after the earlier of the date of the most recent dividend, stock split or other distribution unclaimed by the apparent owner, or the date of the second mailing of a statement of account or other notification or communication that was returned as undeliverable or after the holder discontinued mailings, notifications or communications to the apparent owner;

(d) Any debt of a business association or financial organization, other than a bearer bond or an original issue discount bond, 3 years after the date of the most recent interest payment unclaimed by the apparent owner;

(e) A demand, savings or time deposit, including a deposit that is automatically renewable, 3 years after the earlier of maturity or the date of the last indication by the owner of interest in the property, but a deposit that is automatically renewable is deemed matured for purposes of this section

upon its initial date of maturity, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder;

(f) Except as otherwise provided in NRS 120A.520, any money or credits owed to a customer as a result of a retail business transaction, 3 years after the obligation accrued;

(g) Any amount owed by an insurer on a life or endowment insurance policy or an annuity that has matured or terminated, 3 years after the obligation to pay arose or, in the case of a policy or annuity payable upon proof of death, 3 years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based;

(h) Any property distributable by a business association or financial organization in a course of dissolution, 1 year after the property becomes distributable;

(i) Any property received by a court as proceeds of a class action and not distributed pursuant to the judgment, 1 year after the distribution date;

(j) Except as otherwise provided in NRS 607.170 and 703.375, any property held by a court, government, governmental subdivision, agency or instrumentality, 1 year after the property becomes distributable;

(k) Any wages or other compensation for personal services, 1 year after the compensation becomes payable;

(l) A deposit or refund owed to a subscriber by a utility, 1 year after the deposit or refund becomes payable;

(m) Any property in an individual retirement account, defined benefit plan or other account or plan that is qualified for tax deferral under the income tax laws of the United States, 3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan or the date, if determinable by the holder, specified in the income tax laws of the United States by which distribution of the property must begin in order to avoid a tax penalty; and

(n) All other property, 3 years after the owner's right to demand the property or after the obligation to pay or distribute the property arises, whichever first occurs.

2. At the time that an interest is presumed abandoned under subsection 1, any other property right accrued or accruing to the owner as a result of the interest, and not previously presumed abandoned, is also presumed abandoned.

3. Property is unclaimed if, for the applicable period set forth in subsection 1, the apparent owner has not communicated, in writing or by other means reflected in a contemporaneous record prepared by or on behalf of the holder, with the holder concerning the property or the account in which the property is held and has not otherwise indicated an interest in the property. A communication with an owner by a person other than the holder

or its representative who has not in writing identified the property to the owner is not an indication of interest in the property by the owner.

4. An indication of an owner's interest in property includes:

(a) The presentment of a check or other instrument of payment of a dividend or other distribution made with respect to an account or underlying stock or other interest in a business association or financial organization or, in the case of a distribution made by electronic or similar means, evidence that the distribution has been received;

(b) Owner-directed activity in the account in which the property is held, including a direction by the owner to increase, decrease or change the amount or type of property held in the account;

(c) The making of a deposit to or withdrawal from a bank account; and

(d) The payment of a premium with respect to a property interest in an insurance policy, but the application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent a policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy has otherwise become entitled to the proceeds before the depletion of the cash surrender value of a policy by the application of those provisions.

5. Property is payable or distributable for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or document otherwise required to obtain payment.

6. The following property clearly designated as such must not be presumed abandoned because of inactivity or failure to make a demand:

(a) An account or asset managed through a guardianship;

(b) An account blocked at the direction of a court;

(c) A trust account established to address a special need;

(d) A qualified income trust account;

(e) A trust account established for tuition purposes;

(f) A trust account established on behalf of a client; and

(g) An account or fund established to meet the costs of burial.

Sec. 56. NRS 143.020 is hereby amended to read as follows:

143.020 Except as otherwise provided in NRS *143.030 and* 146.010, a personal representative has a right to the possession of all the real, as well as personal, property of the decedent and may receive the rents and profits of the property until the estate is settled, or until delivered over by order of the court to the heirs or devisees, and shall make a reasonable effort to keep in good tenantable repair all houses, buildings and appurtenances thereon which are under the control of the personal representative.

Sec. 57. NRS 143.030 is hereby amended to read as follows:

143.030 1. A personal representative shall take into possession all the estate of the decedent, real and personal, except that exempted as provided in this title, and shall collect all receivables due the decedent or the estate.

2. For the purpose of bringing actions to quiet title or for partition of the estate, the possession of the personal representative shall be deemed the

possession of the heirs or devisees. The possession of heirs or devisees is subject, however, to the possession of the personal representative for all other purposes.

3. A personal representative shall not take into possession any assets held by a guardian of the decedent pursuant to chapter 159 of NRS until the guardianship is terminated according to the provisions of NRS 159.1905 or 159.191 and the guardian is ordered to distribute the assets to the personal representative.

Sec. 58. NRS 428.070 is hereby amended to read as follows:

428.070 1. The father ~~[,]~~ *or* mother ~~[, children, brothers or sisters,]~~ of sufficient financial ability so to do ~~[,]~~ shall pay to the county which has extended county hospitalization to any ~~[person]~~ *natural child* under the provisions of NRS 428.030 ~~[,]~~ the amount granted to such ~~[person.]~~ *natural child.*

2. *The child of a natural parent receiving county hospitalization pursuant to NRS 428.030 is not liable for the amount paid by the county for that parent, except where the natural child promised to support his natural parent in writing, has access to and control of his natural parent's assets or income and has sufficient financial ability to support his natural parent.*

3. A recipient of aid under the provisions of NRS 428.030 who later acquires sufficient financial ability so to do shall reimburse the county which extended county hospitalization to him for any unpaid portion of the aid granted. Action against the relatives of such person is not a condition precedent to action against him.

~~[3.]~~ *4. The father, mother or child of sufficient financial ability, as appropriate, shall pay to the county the amount the county paid for the burial, entombment or cremation of a natural child or a natural parent.*

5. The board of county commissioners shall advise the Attorney General of the failure of a responsible person to pay such amount and the Attorney General shall cause appropriate legal action to be taken to enforce the collection of all or part of such amount. If suit is filed to enforce the collection, the court shall determine the question of the sufficiency of the financial ability of the person against whom such action is filed, but the board of county commissioners shall determine the responsible person to be sued, and failure of an action against one such person shall not preclude subsequent or concurrent actions against others.

6. In determining the amount to be ordered for support pursuant to subsections 2 and 4, the court shall consider the circumstances of each party, including:

(a) The earning capacity and needs of each party;

(b) The obligations and assets of each party;

(c) The age and health of each party;

(d) The relationship between the parties; and

(e) Any other factor which the court deems just and equitable.

Sec. 59. NRS 433.504 is hereby amended to read as follows:

433.504 1. A client *or his legal guardian* must be:

(a) Permitted to inspect ~~[his]~~ *the client's* records; and

(b) Informed of ~~[his]~~ *the client's* clinical status and progress at reasonable intervals of no longer than 3 months in a manner appropriate to his clinical condition.

2. Unless a psychiatrist has made a specific entry to the contrary in a client's records, a client *or his legal guardian* is entitled to obtain a copy of his records at any time upon notice to the administrative officer of the facility and payment of the cost of reproducing the records.

Sec. 60. NRS 433A.190 is hereby amended to read as follows:

433A.190 Within 24 hours of a person's admission under emergency admission, the administrative officer of a public or private mental health facility shall give notice of such admission *in person, by telephone or facsimile and* by certified mail to the spouse or legal guardian of that person.

Sec. 61. NRS 433A.220 is hereby amended to read as follows:

433A.220 1. Immediately after he receives any petition filed pursuant to NRS 433A.200 or 433A.210, the clerk of the district court shall transmit the petition to the appropriate district judge, who shall set a time, date and place for its hearing. The date must be within 5 judicial days after the date on which the petition is received by the clerk.

2. The court shall give notice of the petition and of the time, date and place of any proceedings thereon to the subject of the petition, his attorney, if known, *the person's legal guardian,* the petitioner, the district attorney of the county in which the court has its principal office, the local office of an agency or organization that receives money from the Federal Government pursuant to 42 U.S.C. §§ 10801 et seq., to protect and advocate the rights of persons with mental illness and the administrative office of any public or private mental health facility in which the subject of the petition is detained.

3. The provisions of this section do not preclude a facility from discharging a person before the time set pursuant to this section for the hearing concerning the person, if appropriate. *If the person has a legal guardian, the facility shall notify the guardian prior to discharging the person from the facility. The guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.*

Sec. 62. NRS 433A.380 is hereby amended to read as follows:

433A.380 1. Except as otherwise provided in subsection 4, any person involuntarily admitted by a court may be conditionally released from a public or private mental health facility when, in the judgment of the medical director of the facility, the conditional release is in the best interest of the person and will not be detrimental to the public welfare. The medical director or his designee of the facility shall prescribe the period for which the

conditional release is effective. The period must not extend beyond the last day of the court-ordered period of treatment pursuant to NRS 433A.310. *If the person has a legal guardian, the facility shall notify the guardian before discharging the person from the facility. The guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.*

2. When a person is conditionally released pursuant to subsection 1, the State or any of its agents or employees are not liable for any debts or contractual obligations, medical or otherwise, incurred or damages caused by the actions of the person.

3. When a person who has been adjudicated by a court to be incompetent is conditionally released from a mental health facility, the administrative officer of the mental health facility shall petition the court for restoration of full civil and legal rights as deemed necessary to facilitate the incompetent person's rehabilitation. *If the person has a legal guardian, the petition must be filed with the court having jurisdiction over the guardianship.*

4. A person who was involuntarily admitted by a court because he was likely to harm others if allowed to remain at liberty may be conditionally released only if, at the time of the release, written notice is given to the court which admitted him , *to the person's legal guardian* and to the district attorney of the county in which the proceedings for admission were held.

5. Except as otherwise provided in subsection 7, the administrative officer of a public or private mental health facility or his designee shall order a person who is conditionally released from that facility pursuant to this section to return to the facility if a psychiatrist and a member of that person's treatment team who is professionally qualified in the field of psychiatric mental health determine, pursuant to NRS 433A.115, that the conditional release is no longer appropriate because that person presents a clear and present danger of harm to himself or others. Except as otherwise provided in this subsection, the administrative officer or his designee shall, at least 3 days before the issuance of the order to return, give written notice of the order to the court that admitted the person to the facility ~~[.]~~ *and to the person's legal guardian.* If an emergency exists in which the person presents an imminent threat of danger of harm to himself or others, the order must be submitted to the court *and the legal guardian* not later than 1 business day after the order is issued.

6. The court shall review an order submitted pursuant to subsection 5 and the current condition of the person who was ordered to return to the facility at its next regularly scheduled hearing for the review of petitions for involuntary court-ordered admissions, but in no event later than 5 judicial days after the person is returned to the facility. The administrative officer or his designee shall give written notice to the person who was ordered to return

to the facility , *to the person's legal guardian* and to his attorney, if known, of the time, date and place of the hearing and of the facts necessitating that person's return to the facility.

7. The provisions of subsection 5 do not apply if the period of conditional release has expired.

Sec. 63. NRS 433A.390 is hereby amended to read as follows:

433A.390 1. When a client, involuntarily admitted to a mental health facility by court order, is released at the end of the time specified pursuant to NRS 433A.310, written notice must be given to the admitting court *and to the client's legal guardian* at least 10 days before the release of the client. The client may then be released without requiring further orders of the court. *If the client has a legal guardian, the facility shall notify the guardian before discharging the client from the facility. The guardian has discretion to determine where the client will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the client will be released within 3 days after the date of notification, the facility shall discharge the client according to its proposed discharge plan.*

2. An involuntarily court-admitted client may be unconditionally released before the period specified in NRS 433A.310 when:

(a) An evaluation team established under NRS 433A.250 or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, determines that the client has recovered from his mental illness or has improved to such an extent that he is no longer considered to present a clear and present danger of harm to himself or others; and

(b) Under advisement from the evaluation team or two persons professionally qualified in the field of psychiatric mental health, at least one of them being a physician, the medical director of the mental health facility authorizes the release and gives written notice to the admitting court *and to the client's legal guardian* at least 10 days before the release of the client. *If the client has a legal guardian, the facility shall notify the guardian before discharging the client from the facility. The guardian has discretion to determine where the client will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the client will be released within 3 days after the date of notification, the facility shall discharge the client according to its proposed discharge plan.*

Sec. 64. NRS 433A.400 is hereby amended to read as follows:

433A.400 1. An indigent resident of this state discharged as having recovered from his mental illness, but having a residual medical or surgical disability which prevents him from obtaining or holding remunerative employment, ~~[shall]~~ *must* be returned to the county of his last residence ~~[.]~~ , *except as otherwise provided pursuant to subsection 2.* A nonresident indigent with such disabilities ~~[shall]~~ *must* be returned to the county from

which he was involuntarily court-admitted ~~[.]~~ *, except as otherwise provided in subsection 2.* The administrative officer of the mental health facility shall first give notice in writing, not less than 10 days ~~[prior to]~~ *before* discharge, to the board of county commissioners of the county to which the person will be returned ~~[.]~~ *and to the person's legal guardian.*

2. Delivery of the indigent ~~[resident defined in subsection 1 shall]~~ *person must* be made to an individual or agency authorized to provide further care. *If the person has a legal guardian, the facility shall notify the guardian before discharging the person from the facility. The guardian has discretion to determine where the person will be released, taking into consideration any discharge plan proposed by the facility assessment team. If the guardian does not inform the facility as to where the person will be released within 3 days after the date of notification, the facility shall discharge the person according to its proposed discharge plan.*

3. This section does not authorize the release of any person held upon an order of a court or judge having criminal jurisdiction arising out of a criminal offense.

Sec. 65. NRS 159.0365 is hereby repealed.

Sec. 66. 1. This section and sections 1 to 53, inclusive, and 55 to 65, inclusive, of this act become effective on October 1, 2009.

2. Section 53 of this act expires by limitation on June 30, 2011.

3. Section 54 of this act becomes effective on July 1, 2011.

TEXT OF REPEALED SECTION

159.0365 Proceedings pending in another state.

1. If the court has reason to believe that guardianship proceedings may be pending in another state concerning a ward or proposed ward, the court may order communication with the court in the other state:

(a) To determine the involvement or interest of each jurisdiction;

(b) To promote cooperation, expand the exchange of information and provide any other form of assistance; and

(c) To determine the appropriate jurisdiction for the proceedings.

2. As used in this section, "guardianship" includes, without limitation, a conservatorship.

Senator Care moved the adoption of the amendment.

Remarks by Senator Care.

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

The amendment pertains only to the provisions of the bill concerning the documents required when petitioning for the appointment of a guardian. Among the documents is a certificate signed by a doctor licensed in Nevada. This amendment allows doctors employed by the Department of Veterans Affairs to also sign those certificates.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Senate Bill No. 353.

Bill read second time and ordered to third reading.

Senate Bill No. 392.
Bill read second time and ordered to third reading.

Assembly Bill No. 39.
Bill read second time and ordered to third reading.

GENERAL FILE AND THIRD READING

Assembly Bill No. 469.
Bill read third time.
Roll call on Assembly Bill No. 469:
YEAS—21.
NAYS—None.

Assembly Bill No. 469 having received a constitutional majority, Mr. President declared it passed.
Bill ordered transmitted to the Assembly.

Senate Bill No. 162.
Bill read third time.
The following amendment was proposed by the Committee on Legislative Operations and Elections:
Amendment No. 244.
"SUMMARY—Revises the date of the primary election and provisions governing voter registration by mail. (BDR 24-1001)"
"AN ACT relating to elections; revising the date of the primary election to the second Tuesday in June of each even-numbered year; revising the provisions governing the registration of voters by mail; and providing other matters properly relating thereto."
Legislative Counsel's Digest:
Section 6 of this bill changes the date of the primary election from the twelfth Tuesday before the general election of each even-numbered year to the second Tuesday in June of each even-numbered year. (NRS 293.175) To provide an example, if the provisions of this bill had been in effect in 2008, the primary election would have been held on June 10, 2008, instead of August 12, 2008.
As a result of changing the date of the primary election, sections 1-5, 7-12 and 14-17 of this bill amend various other dates relating to elections such as the date for filing declarations of candidacy.
Section 13 of this bill provides that no primary election will be held for a particular office if: (1) only one major political party has candidates for that office; and (2) that major political party has not more than twice the number of candidates to be elected to that office. This restriction on holding a primary election for a particular office applies regardless of whether there is a minor political candidate or an independent candidate for that particular office. (NRS 293.260)
Section 16 of this bill changes the date on which a voter's registration or correction of registration information is deemed to be effective to the earlier

of the date on which the application is postmarked or received by the county clerk. (NRS 293.5235)

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

Section 1. NRS 293.128 is hereby amended to read as follows:

293.128 1. To qualify as a major political party, any organization must, under a common name:

(a) On January 1 preceding any primary election, have been designated as a political party on the applications to register to vote of at least 10 percent of the total number of registered voters in this State; or

(b) File a petition with the Secretary of State not later than the last Friday in ~~[April]~~ *February* before any primary election signed by a number of registered voters equal to or more than 10 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

2. If a petition is filed pursuant to paragraph (b) of subsection 1, the names of the voters need not all be on one document, but each document of the petition must be verified by the circulator thereof to the effect that the signers are registered voters of this State according to his best information and belief and that the signatures are genuine and were signed in his presence. Each document of the petition must bear the name of a county, and only registered voters of that county may sign the document. The documents which are circulated for signature must then be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last Friday in ~~[April]~~ *February* preceding a primary election.

3. In addition to the requirements set forth in subsection 1, each organization which wishes to qualify as a political party must file with the Secretary of State a certificate of existence which includes the:

(a) Name of the political party;

(b) Names and addresses of its officers;

(c) Names of the members of its executive committee; and

(d) Name of the person who is authorized by the party to act as registered agent in this State.

4. A political party shall file with the Secretary of State an amended certificate of existence within 5 days after any change in the information contained in the certificate.

Sec. 2. NRS 293.165 is hereby amended to read as follows:

293.165 1. Except as otherwise provided in NRS 293.166, a vacancy occurring in a major or minor political party nomination for a partisan office may be filled by a candidate designated by the party central committee of the county or State, as the case may be, of the major political party or by the executive committee of the minor political party subject to the provisions of subsections 4 and 5.

2. A vacancy occurring in a nonpartisan nomination after the close of filing and on or before 5 p.m. of the second Tuesday in ~~[June]~~ *April* must be

filled by filing a nominating petition that is signed by registered voters of the State, county, district or municipality who may vote for the office in question. The number of registered voters who sign the petition must not be less than 1 percent of the number of persons who voted for the office in question in the State, county, district or municipality at the last preceding general election. The petition must be filed not earlier than the first Tuesday in ~~[May]~~ *March* and not later than the fourth Tuesday in ~~[June.]~~ *April.* The petition may consist of more than one document. Each document must bear the name of one county and must be signed only by a person who is a registered voter of that county and who may vote for the office in question. Each document of the petition must be submitted for verification pursuant to NRS 293.1276 to 293.1279, inclusive, to the county clerk of the county named on the document. A candidate nominated pursuant to the provisions of this subsection:

(a) Must file a declaration of candidacy or acceptance of candidacy and pay the statutory filing fee on or before the date the petition is filed; and

(b) May be elected only at a general election, and his name must not appear on the ballot for a primary election.

3. A vacancy occurring in a nonpartisan nomination after 5 p.m. of the second Tuesday in ~~[June]~~ *April* and on or before 5 p.m. on the first Tuesday after the primary election must be filled by the person who receives the next highest vote for the nomination in the primary.

4. No change may be made on the ballot for the general election after 5 p.m. on the first Tuesday after the primary election . ~~[of the year in which the general election is held.]~~ If a nominee dies after that time and date, his name must remain on the ballot for the general election and, if elected, a vacancy exists.

5. All designations provided for in this section must be filed on or before 5 p.m. on the first Tuesday after the primary election. In each case, the statutory filing fee must be paid and an acceptance of the designation must be filed on or before 5 p.m. on the date the designation is filed.

Sec. 3. NRS 293.1715 is hereby amended to read as follows:

293.1715 1. The names of the candidates for partisan office of a minor political party must not appear on the ballot for a primary election.

2. The names of the candidates for partisan office of a minor political party must be placed on the ballot for the general election if the party has filed a certificate of existence and a list of its candidates for partisan office pursuant to the provisions of NRS 293.1725 with the Secretary of State and:

(a) At the last preceding general election, the minor political party polled for any of its candidates for partisan office a number of votes equal to or more than 1 percent of the total number of votes cast for the offices of Representative in Congress;

(b) On January 1 preceding a primary election, the minor political party has been designated as the political party on the applications to register to

vote of at least 1 percent of the total number of registered voters in this State; or

(c) Not later than the second Friday in ~~[August]~~ *June* preceding the general election, files a petition with the Secretary of State which is signed by a number of registered voters equal to at least 1 percent of the total number of votes cast at the last preceding general election for the offices of Representative in Congress.

3. The name of a candidate for partisan office for a minor political party other than a candidate for the office of President or Vice President of the United States must be placed on the ballot for the general election if the party has filed:

(a) A certificate of existence;

(b) A list of candidates for partisan office containing the name of the candidate pursuant to the provisions of NRS 293.1725 with the Secretary of State; and

(c) Not earlier than the first Monday in ~~[May]~~ ~~*[March]*~~ *April* preceding the general election and not later than 5 p.m. on the ~~[second]~~ *first* Friday after the first Monday in ~~[May,]~~ ~~*[March,]*~~ *April,* a petition on behalf of the candidate with the Secretary of State containing not less than:

(1) Two hundred fifty signatures of registered voters if the candidate is to be nominated for a statewide office; or

(2) One hundred signatures of registered voters if the candidate is to be nominated for any office except a statewide office.

➥ A minor political party that places names of one or more candidates for partisan office on the ballot pursuant to this subsection may also place the names of one or more candidates for partisan office on the ballot pursuant to subsection 2.

4. The name of only one candidate of each minor political party for each partisan office may appear on the ballot for a general election.

5. A minor political party must file a copy of the petition required by paragraph (c) of subsection 2 or paragraph (c) of subsection 3 with the Secretary of State before the petition may be circulated for signatures.

Sec. 4. NRS 293.1725 is hereby amended to read as follows:

293.1725 1. Except as otherwise provided in subsection ~~[4,]~~ *6,* a minor political party that wishes to place its candidates for partisan office on the ballot for a general election and:

(a) Is entitled to do so pursuant to paragraph (a) or (b) of subsection 2 of NRS 293.1715;

(b) Files *or will file* a petition pursuant to paragraph (c) of subsection 2 of NRS 293.1715; or

(c) Whose candidates are entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715,

➥ must file with the Secretary of State a list of its candidates for partisan office .

2. The list of candidates for partisan office required pursuant to subsection 1 must be filed with the Secretary of State:

(a) If the minor political party is described in paragraph (a) or (b) of subsection 1, not earlier than the first Monday in March preceding the election nor later than 5 p.m. on the first Friday after the first Monday in March. The list may be amended not later than 5 p.m. on the first Friday after the first Monday in March.

(b) If the minor political party is described in paragraph (c) of subsection 1, not earlier than the first Monday in ~~[May]~~ *April* preceding the election nor later than 5 p.m. on the ~~[second]~~ *first* Friday after the first Monday in ~~[May.]~~ *April. The list may be amended not later than 5 p.m. on the first Friday after the first Monday in April.*

3. The list must be signed by the person so authorized in the certificate of existence of the minor political party before a notary public or other person authorized to take acknowledgments. The Secretary of State shall strike from the list each candidate who is not entitled to appear on the ballot pursuant to subsection 3 of NRS 293.1715 if the minor political party is not entitled to place candidates on the ballot pursuant to subsection 2 of NRS 293.1715. ~~[The list may be amended not later than 5 p.m. on the]~~ [second] ~~*[first* Friday after the first Monday in]~~ [May.] ~~*[April.]*~~

~~[2.]~~ *4.* The Secretary of State shall immediately forward a certified copy of the list of candidates for partisan office of each minor political party to the filing officer with whom each candidate must file his declaration of candidacy.

~~[3.]~~ *5.* Each candidate on the list must file his declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the date on which the list of candidates for partisan office of his minor political party is filed with the Secretary of State nor later than 5 p.m. on the ~~[second]~~ *first* Friday after the first Monday in ~~[May.]~~ *:*

(a) If the list is filed pursuant to paragraph (a) of subsection 2, March.

(b) If the list is filed pursuant to paragraph (b) of subsection 2, April.

~~[4.]~~ *6.* A minor political party that wishes to place candidates for the offices of President and Vice President of the United States on the ballot and has qualified to place the names of its candidates for partisan office on the ballot for the general election pursuant to subsection 2 of NRS 293.1715 must file with the Secretary of State a certificate of nomination for these offices not later than the first Tuesday in September.

Sec. 5. NRS 293.174 is hereby amended to read as follows:

293.174 1. If the qualification of a minor political party is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the third Friday in ~~[August.]~~ *June.* Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the third Friday in ~~[August.]~~ *June.* A challenge pursuant to this subsection must be filed with the First Judicial District Court if the petition was filed with the Secretary of State.

2. If the qualification of a candidate of a minor political party other than a candidate for the office of President or Vice President of the United States is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in ~~[May.]~~ ~~*[March.]*~~ *April.* Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in ~~[May.]~~ ~~*[March.]*~~ *April.* A challenge pursuant to this subsection must be filed with:

(a) The First Judicial District Court; or

(b) If a candidate who filed a declaration of candidacy with a county clerk is challenged, the district court for the county where the declaration of candidacy was filed.

Sec. 6. NRS 293.175 is hereby amended to read as follows:

293.175 1. The primary election must be held on the ~~[12th Tuesday before the general election]~~ *second Tuesday* in *June of* each even-numbered year.

2. Candidates for partisan office of a major political party and candidates for nonpartisan office must be nominated at the primary election.

3. Candidates for partisan office of a minor political party must be nominated in the manner prescribed pursuant to NRS 293.171 to 293.174, inclusive.

4. Independent candidates for partisan office must be nominated in the manner provided in NRS 293.200.

5. The provisions of NRS 293.175 to 293.203, inclusive, do not apply to:

(a) Special elections to fill vacancies.

(b) The nomination of the officers of incorporated cities.

(c) The nomination of district officers whose nomination is otherwise provided for by statute.

Sec. 7. NRS 293.177 is hereby amended to read as follows:

293.177 1. Except as otherwise provided in NRS 293.165, a name may not be printed on a ballot to be used at a primary election unless the person named has filed a declaration of candidacy or an acceptance of candidacy, and has paid the fee required by NRS 293.193 not earlier than:

(a) For a candidate for judicial office, the first Monday in January of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in January; and

(b) For all other candidates, the first Monday in ~~[May]~~ *March* of the year in which the election is to be held nor later than 5 p.m. on the second Friday after the first Monday in ~~[May.]~~ *March.*

2. A declaration of candidacy or an acceptance of candidacy required to be filed by this section must be in substantially the following form:

(a) For partisan office:

DECLARATION OF CANDIDACY OF .... FOR THE OFFICE OF .....

State of Nevada

County of .....

For the purpose of having my name placed on the official ballot as a candidate for the ..... Party nomination for the office of ……, I, the undersigned ……., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside at ……., in the City or Town of ……., County of ……., State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am registered as a member of the ..... Party; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that I have not, in violation of the provisions of NRS 293.176, changed the designation of my political party or political party affiliation on an official application to register to vote in any state since September 1 before the closing filing date for this election; that I generally believe in and intend to support the concepts found in the principles and policies of that political party in the coming election; that if nominated as a candidate of the ..... Party at the ensuing election, I will accept that nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and that I understand that my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this .... day of the month of .... of the year .....

.....
Notary Public or other person
authorized to administer an oath

(b) For nonpartisan office:

DECLARATION OF CANDIDACY OF .... FOR THE OFFICE OF .....

State of Nevada
County of .....

For the purpose of having my name placed on the official ballot as a candidate for the office of ....., I, the undersigned ....., do swear or affirm under penalty of perjury that I actually, as opposed to constructively, reside

at ……, in the City or Town of ……., County of ……, State of Nevada; that my actual, as opposed to constructive, residence in the State, district, county, township, city or other area prescribed by law to which the office pertains began on a date at least 30 days immediately preceding the date of the close of filing of declarations of candidacy for this office; that my telephone number is ....., and the address at which I receive mail, if different than my residence, is .....; that I am a qualified elector pursuant to Section 1 of Article 2 of the Constitution of the State of Nevada; that if I have ever been convicted of treason or a felony, my civil rights have been restored by a court of competent jurisdiction; that if nominated as a nonpartisan candidate at the ensuing election, I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law defining and prohibiting corrupt and fraudulent practices in campaigns and elections in this State; that I will qualify for the office if elected thereto, including, but not limited to, complying with any limitation prescribed by the Constitution and laws of this State concerning the number of years or terms for which a person may hold the office; and my name will appear on all ballots as designated in this declaration.

.....
(Designation of name)

.....
(Signature of candidate for office)

Subscribed and sworn to before me
this .... day of the month of .... of the year .....

.....
Notary Public or other person
authorized to administer an oath

3. The address of a candidate which must be included in the declaration of candidacy or acceptance of candidacy pursuant to subsection 2 must be the street address of the residence where he actually, as opposed to constructively, resides in accordance with NRS 281.050, if one has been assigned. The declaration or acceptance of candidacy must not be accepted for filing if:

(a) The candidate's address is listed as a post office box unless a street address has not been assigned to his residence; or

(b) The candidate does not present to the filing officer:

(1) A valid driver's license or identification card issued by a governmental agency that contains a photograph of the candidate and the candidate's residential address; or

(2) A current utility bill, bank statement, paycheck, or document issued by a governmental entity, including a check which indicates the candidate's name and residential address, but not including a voter registration card issued pursuant to NRS 293.517.

4. The filing officer shall retain a copy of the proof of identity and residency provided by the candidate pursuant to paragraph (b) of subsection 3. Such a copy:

(a) May not be withheld from the public; and

(b) Must not contain the social security number or driver's license or identification card number of the candidate.

5. By filing the declaration or acceptance of candidacy, the candidate shall be deemed to have appointed the filing officer for the office as his agent for service of process for the purposes of a proceeding pursuant to NRS 293.182. Service of such process must first be attempted at the appropriate address as specified by the candidate in the declaration or acceptance of candidacy. If the candidate cannot be served at that address, service must be made by personally delivering to and leaving with the filing officer duplicate copies of the process. The filing officer shall immediately send, by registered or certified mail, one of the copies to the candidate at his specified address, unless the candidate has designated in writing to the filing officer a different address for that purpose, in which case the filing officer shall mail the copy to the last address so designated.

6. If the filing officer receives credible evidence indicating that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer:

(a) May conduct an investigation to determine whether the candidate has been convicted of a felony and, if so, whether he has had his civil rights restored by a court of competent jurisdiction; and

(b) Shall transmit the credible evidence and the findings from such investigation to the Attorney General, if the filing officer is the Secretary of State, or to the district attorney, if the filing officer is a person other than the Secretary of State.

7. The receipt of information by the Attorney General or district attorney pursuant to subsection 6 must be treated as a challenge of a candidate pursuant to subsections 4 and 5 of NRS 293.182. If the ballots are printed before a court of competent jurisdiction makes a determination that a candidate has been convicted of a felony and has not had his civil rights restored by a court of competent jurisdiction, the filing officer must post a notice at each polling place where the candidate's name will appear on the ballot informing the voters that the candidate is disqualified from entering upon the duties of the office for which the candidate filed the declaration of candidacy or acceptance of candidacy.

Sec. 8. NRS 293.180 is hereby amended to read as follows:

293.180 1. Ten or more registered voters may file a certificate of candidacy designating any registered voter as a candidate for:

(a) Their major political party's nomination for any partisan elective office, or as a candidate for nomination for any nonpartisan office other than a judicial office, not earlier than the first Monday in ~~[April]~~ *February* of the

year in which the election is to be held nor later than 5 p.m. on the first Friday in ~~[May;]~~ *March;* or

(b) Nomination for a judicial office, not earlier than the first Monday in December of the year immediately preceding the year in which the election is to be held nor later than 5 p.m. on the first Friday in January of the year in which the election is to be held.

2. When the certificate has been filed, the officer in whose office it is filed shall notify the person named in the certificate. If the person named in the certificate files an acceptance of candidacy and pays the required fee, as provided by law, he is a candidate in the primary election in like manner as if he had filed a declaration of candidacy.

3. If a certificate of candidacy relates to a partisan office, all of the signers must be of the same major political party as the candidate designated.

Sec. 9. NRS 293.200 is hereby amended to read as follows:

293.200 1. An independent candidate for partisan office must file with the appropriate filing officer:

(a) A copy of the petition of candidacy that he intends to subsequently circulate for signatures. The copy must be filed not earlier than the January 2 preceding the date of the election and not later than 25 working days before the last day to file the petition pursuant to subsection 4.

(b) Either of the following:

(1) A petition of candidacy signed by a number of registered voters equal to at least 1 percent of the total number of ballots cast in:

(I) This State for that office at the last preceding general election in which a person was elected to that office, if the office is a statewide office;

(II) The county for that office at the last preceding general election in which a person was elected to that office, if the office is a county office; or

(III) The district for that office at the last preceding general election in which a person was elected to that office, if the office is a district office.

(2) A petition of candidacy signed by 250 registered voters if the candidate is a candidate for statewide office, or signed by 100 registered voters if the candidate is a candidate for any office other than a statewide office.

2. The petition may consist of more than one document. Each document must bear the name of the county in which it was circulated, and only registered voters of that county may sign the document. If the office is not a statewide office, only the registered voters of the county, district or municipality in question may sign the document. The documents that are circulated for signature in a county must be submitted to that county clerk for verification in the manner prescribed in NRS 293.1276 to 293.1279, inclusive, not later than 25 working days before the last day to file the petition pursuant to subsection 4. Each person who signs the petition shall add to his signature the address of the place at which he actually resides, the date that he signs the petition and the name of the county where he is registered to vote. The person who circulates each document of the petition

shall sign an affidavit attesting that the signatures on the document are genuine to the best of his knowledge and belief and were signed in his presence by persons registered to vote in that county.

3. The petition of candidacy may state the principle, if any, which the person qualified represents.

4. Petitions of candidacy must be filed not earlier than the first Monday in ~~[May]~~ *April* preceding the general election and not later than 5 p.m. on the ~~[second]~~ *first* Friday after the first Monday in ~~[May.]~~ *April.*

5. No petition of candidacy may contain the name of more than one candidate for each office to be filled.

6. A person may not file as an independent candidate if he is proposing to run as the candidate of a political party.

7. The names of independent candidates must be placed on the general election ballot and must not appear on the primary election ballot.

8. If the candidacy of any person seeking to qualify pursuant to this section is challenged, all affidavits and documents in support of the challenge must be filed not later than 5 p.m. on the fourth Monday in ~~[May.]~~ *April.* Any judicial proceeding resulting from the challenge must be set for hearing not more than 5 days after the fourth Monday in ~~[May.]~~ *April.*

9. Any challenge pursuant to subsection 8 must be filed with:

(a) The First Judicial District Court if the petition of candidacy was filed with the Secretary of State.

(b) The district court for the county where the petition of candidacy was filed if the petition was filed with a county clerk.

10. An independent candidate for partisan office must file a declaration of candidacy with the appropriate filing officer and pay the fee required by NRS 293.193 not earlier than the first Monday in ~~[May]~~ *April* of the year in which the election is held nor later than 5 p.m. on the ~~[second]~~ *first* Friday after the first Monday in ~~[May.]~~ *April.*

Sec. 10. NRS 293.205 is hereby amended to read as follows:

293.205 1. Except as otherwise provided in NRS 293.208, on or before the third Wednesday in ~~[May]~~ *March* of every even-numbered year, the county clerk shall establish election precincts, define the boundaries thereof, abolish, alter, consolidate and designate precincts as public convenience, necessity and economy may require.

2. The boundaries of each election precinct must follow visible ground features or extensions of visible ground features, except where the boundary coincides with the official boundary of the State or a county or city.

3. Election precincts must be composed only of contiguous territory.

4. As used in this section, "visible ground feature" includes a street, road, highway, river, stream, shoreline, drainage ditch, railroad right-of-way or any other physical feature which is clearly visible from the ground.

Sec. 11. NRS 293.206 is hereby amended to read as follows:

293.206 1. On or before the last day in ~~[May]~~ *March* of every even-numbered year, the county clerk shall provide the Secretary of State and

the Director of the Legislative Counsel Bureau with a copy or electronic file of a map showing the boundaries of all election precincts in the county.

2. If the Secretary of State determines that the boundaries of an election precinct do not comply with the provisions of NRS 293.205, he must provide the county clerk with a written statement of noncompliance setting forth the reasons the precinct is not in compliance. Within 15 days after receiving the notice of noncompliance, the county clerk shall make any adjustments to the boundaries of the precinct which are required to bring the precinct into compliance with the provisions of NRS 293.205 and he shall submit a corrected copy or electronic file of the precinct map to the Secretary of State and the Director of the Legislative Counsel Bureau.

3. If the initial or corrected election precinct map is not filed as required pursuant to this section or the county clerk fails to make the necessary changes to the boundaries of an election precinct pursuant to subsection 2, the Secretary of State may establish appropriate precinct boundaries in compliance with the provisions of NRS 293.205 to 293.213, inclusive. If the Secretary of State revises the map pursuant to this subsection, he shall submit a copy or electronic file of the revised map to the Director of the Legislative Counsel Bureau and the appropriate county clerk.

4. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.

Sec. 12. NRS 293.208 is hereby amended to read as follows:

293.208 1. Except as otherwise provided in subsections 2, 3 and 5 and in NRS 293.206, no election precinct may be created, divided, abolished or consolidated, or the boundaries thereof changed, during the period between the third Wednesday in ~~[May]~~ *March* of any year whose last digit is 6 and the time when the Legislature has been redistricted in a year whose last digit is 1, unless the creation, division, abolishment or consolidation of the precinct, or the change in boundaries thereof, is:

(a) Ordered by a court of competent jurisdiction;

(b) Required to meet objections to a precinct by the Attorney General of the United States pursuant to the Voting Rights Act of 1965, 42 U.S.C. §§ 1971 and 1973 et seq., and any amendments thereto;

(c) Required to comply with subsection 2 of NRS 293.205;

(d) Required by the incorporation of a new city; or

(e) Required by the creation of or change in the boundaries of a special district.

➥ As used in this subsection, "special district" means any general improvement district or any other quasi-municipal corporation organized under the local improvement and service district laws of this State as enumerated in title 25 of NRS which is required by law to hold elections or any fire protection district which is required by law to hold elections.

2. If a city annexes an unincorporated area located in the same county as the city and adjacent to the corporate boundary, the annexed area may be included in an election precinct immediately adjacent to it.

3. A new election precinct may be established at any time if it lies entirely within the boundaries of any existing precinct.

4. If a change in the boundaries of an election precinct is made pursuant to this section during the time specified in subsection 1, the county clerk must:

(a) Within 15 days after the change to the boundary of a precinct is established by the county clerk or ordered by a court, send to the Director of the Legislative Counsel Bureau and the Secretary of State a copy or electronic file of a map showing the new boundaries of the precinct; and

(b) Maintain in his office an index providing the name of the precinct and describing all changes which were made, including any change in the name of the precinct and the name of any new precinct created within the boundaries of an existing precinct.

5. Cities of population categories two and three are exempt from the provisions of subsection 1.

6. As used in this section, "electronic file" includes, without limitation, an electronic data file of a geographic information system.

Sec. 13. NRS 293.260 is hereby amended to read as follows:

293.260 1. Where there is no contest of election for nomination to a particular office, neither the title of the office nor the name of the candidate may appear on the ballot.

2. If more than one major political party has candidates for a particular office, the persons who receive the highest number of votes at the primary elections must be declared the nominees of those parties for the office.

3. ~~[If only one major political party has candidates for a particular office and a minor political party has nominated a candidate for the office or an independent candidate has filed for the office, the candidate who receives the highest number of votes in the primary election of the major political party must be declared the nominee of that party and his name must be placed on the general election ballot with the name of the nominee of the minor political party for the office and the name of the independent candidate who has filed for the office.~~

~~4.]~~ If only one major political party has candidates for a particular office *:* ~~[and no minor political party has nominated a candidate for the office and no independent candidate has filed for the office:]~~

(a) If there are more candidates than twice the number to be elected to the office, the names of the candidates must appear on the ballot for a primary election. Except as otherwise provided in this paragraph, the candidates of that party who receive the highest number of votes in the primary election, not to exceed twice the number to be elected to that office at the general election, must be declared the nominees for the office. If only one candidate is to be elected to the office and a candidate receives a majority of the votes in the primary election for that office, that candidate must be declared the nominee for that office and his name must be placed on the ballot for the general election.

(b) If there are no more than twice the number of candidates to be elected to the office, the candidates must, without a primary election, be declared the nominees for the office.

~~[5.]~~ *4.* Where no more than the number of candidates to be elected have filed for nomination for:

(a) Any partisan office or the office of justice of the Supreme Court, the names of those candidates must be omitted from all ballots for a primary election and placed on all ballots for a general election;

(b) Any nonpartisan office, other than the office of justice of the Supreme Court or the office of member of a town advisory board, the names of those candidates must appear on the ballot for a primary election unless the candidates were nominated pursuant to subsection 2 of NRS 293.165. If a candidate receives one or more votes at the primary election, he must be declared elected to the office and his name must not be placed on the ballot for the general election. If a candidate does not receive one or more votes at the primary election, his name must be placed on the ballot for the general election; and

(c) The office of member of a town advisory board, the candidate must be declared elected to the office and no election must be held for that office.

~~[6.]~~ *5.* If there are more candidates than twice the number to be elected to a nonpartisan office, the names of the candidates must appear on the ballot for a primary election. Those candidates who receive the highest number of votes at that election, not to exceed twice the number to be elected, must be declared nominees for the office.

Sec. 14. NRS 293.368 is hereby amended to read as follows:

293.368 1. Whenever a candidate whose name appears upon the ballot at a primary election dies after 5 p.m. of the second Tuesday in ~~[June,]~~ *April*, his name must remain on the ballot and the votes cast for the deceased candidate must be counted in determining the nomination for the office for which the decedent was a candidate.

2. If the deceased candidate on the ballot at the primary election receives the number of votes required to receive the nomination to the office for which he was a candidate, except as otherwise provided in subsection 3 of NRS 293.165, he shall be deemed nominated and ~~[there shall be a]~~ *the* vacancy in the nomination ~~[that]~~ must be filled as provided in NRS 293.165 or 293.166. If the deceased person was a candidate for a nonpartisan office, the nomination must be filled pursuant to subsection 2 of NRS 293.165.

3. Whenever a candidate whose name appears upon the ballot at a general election dies after 5 p.m. on the first Tuesday after the primary election, the votes cast for the deceased candidate must be counted in determining the results of the election for the office for which the decedent was a candidate.

4. If the deceased candidate on the ballot at the general election receives the majority of the votes cast for the office, he shall be deemed elected and the office to which he was elected shall be deemed vacant at the beginning of

the term for which he was elected. The vacancy thus created must be filled in the same manner as if the candidate had died after taking office for that term.

Sec. 15. NRS 293.481 is hereby amended to read as follows:

293.481 1. Except as otherwise provided in subsection 2, every governing body of a political subdivision, public or quasi-public corporation, or other local agency authorized by law to submit questions to the qualified electors or registered voters of a designated territory, when the governing body decides to submit a question:

(a) At a general election, shall provide to each county clerk within the designated territory on or before the third Monday in July preceding the election:

(1) A copy of the question, including an explanation of the question;

(2) Except as otherwise provided in NRS 295.121 or 295.217, arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(b) At a primary election, shall provide to each county clerk within the designated territory on or before the second Friday after the first Monday in ~~[May]~~ *March* preceding the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(c) At any election other than a primary or general election at which the county clerk gives notice of the election or otherwise performs duties in connection therewith other than the registration of electors and the making of records of registered voters available for the election, shall provide to each county clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

(d) At any city election at which the city clerk gives notice of the election or otherwise performs duties in connection therewith, shall provide to the city clerk at least 60 days before the election:

(1) A copy of the question, including an explanation of the question;

(2) Arguments for and against the question; and

(3) A description of the anticipated financial effect on the local government which, if the question is an advisory question that proposes a

bond, tax, fee or expense, must be prepared in accordance with subsection 4 of NRS 293.482.

2. A question may be submitted after the dates specified in subsection 1 if the question is expressly privileged or required to be submitted pursuant to the provisions of Article 19 of the Constitution of the State of Nevada, or pursuant to the provisions of chapter 295 of NRS or any other statute except NRS 293.482, 354.59817, 354.5982, 387.3285 or 387.3287 or any statute that authorizes the governing body to issue bonds upon the approval of the voters.

3. A question that is submitted pursuant to subsection 1 may be withdrawn if the governing body provides notification to each of the county or city clerks within the designated territory of its decision to withdraw the particular question on or before the same dates specified for submission pursuant to paragraph (a), (b), (c) or (d) of subsection 1, as appropriate.

4. A county or city clerk:

(a) Shall assign a unique identification number to a question submitted pursuant to this section; and

(b) May charge any political subdivision, public or quasi-public corporation, or other local agency which submits a question a reasonable fee sufficient to pay for the increased costs incurred in including the question, explanation, arguments and description of the anticipated financial effect on the ballot.

Sec. 16. NRS 293.5235 is hereby amended to read as follows:

293.5235 1. Except as otherwise provided in NRS 293.502, a person may register to vote by mailing an application to register to vote to the county clerk of the county in which he resides. The county clerk shall, upon request, mail an application to register to vote to an applicant. The county clerk shall make the applications available at various public places in the county. An application to register to vote may be used to correct information in the registrar of voters' register.

2. An application to register to vote which is mailed to an applicant by the county clerk or made available to the public at various locations or voter registration agencies in the county may be returned to the county clerk by mail or in person. For the purposes of this section, an application which is personally delivered to the county clerk shall be deemed to have been returned by mail.

3. The applicant must complete the application, including, without limitation, checking the boxes described in paragraphs (b) and (c) of subsection 10 and signing the application.

4. The county clerk shall, upon receipt of an application, determine whether the application is complete.

5. If he determines that the application is complete, he shall, within 10 days after he receives the application, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

6. Except as otherwise provided in subsection 5 of NRS 293.518, if the county clerk determines that the application is not complete, he shall, as soon as possible, mail a notice to the applicant informing him that additional information is required to complete the application. If the applicant provides the information requested by the county clerk within 15 days after the county clerk mails the notice, the county clerk shall, within 10 days after he receives the information, mail to the applicant:

(a) A notice informing him that he is registered to vote and a voter registration card as required by subsection 6 of NRS 293.517; or

(b) A notice informing him that the registrar of voters' register has been corrected to reflect any changes indicated on the application.

➥ If the applicant does not provide the additional information within the prescribed period, the application is void.

7. The applicant shall be deemed to be registered or to have corrected the information in the register ~~[:~~

~~(a) If the application is received by the county clerk or postmarked not more than 3 working days after the applicant completed the application, on the date the applicant completed the application; or~~

~~(b) If the application is received by the county clerk or postmarked more than 3 working days after the applicant completed the application, on the date the application is received by the county clerk.]~~ *on the date the application is postmarked or received by the county clerk, whichever is earlier.*

8. If the applicant fails to check the box described in paragraph (b) of subsection 10, the application shall not be considered invalid and the county clerk shall provide a means for the applicant to correct the omission at the time the applicant appears to vote in person at his assigned polling place.

9. The Secretary of State shall prescribe the form for an application to register to vote by mail which must be used to register to vote by mail in this State.

10. The application to register to vote by mail must include:

(a) A notice in at least 10-point type which states:

> NOTICE: You are urged to return your application to register to vote to the County Clerk in person or by mail. If you choose to give your completed application to another person to return to the County Clerk on your behalf, and the person fails to deliver the application to the County Clerk, you will not be registered to vote. Please retain the duplicate copy or receipt from your application to register to vote.

(b) The question, "Are you a citizen of the United States?" and boxes for the applicant to check to indicate whether or not the applicant is a citizen of the United States.

(c) The question, "Will you be at least 18 years of age on or before election day?" and boxes for the applicant to check to indicate whether or not the applicant will be at least 18 years of age or older on election day.

(d) A statement instructing the applicant not to complete the application if the applicant checked "no" in response to the question set forth in paragraph (b) or (c).

(e) A statement informing the applicant that if the application is submitted by mail and the applicant is registering to vote for the first time, the applicant must submit the information set forth in paragraph (a) of subsection 2 of NRS 293.2725 to avoid the requirements of subsection 1 of NRS 293.2725 upon voting for the first time.

11. Except as otherwise provided in subsection 5 of NRS 293.518, the county clerk shall not register a person to vote pursuant to this section unless that person has provided all of the information required by the application.

12. The county clerk shall mail, by postcard, the notices required pursuant to subsections 5 and 6. If the postcard is returned to the county clerk by the United States Postal Service because the address is fictitious or the person does not live at that address, the county clerk shall attempt to determine whether the person's current residence is other than that indicated on his application to register to vote in the manner set forth in NRS 293.530.

13. A person who, by mail, registers to vote pursuant to this section may be assisted in completing the application to register to vote by any other person. The application must include the mailing address and signature of the person who assisted the applicant. The failure to provide the information required by this subsection will not result in the application being deemed incomplete.

14. An application to register to vote must be made available to all persons, regardless of political party affiliation.

15. An application must not be altered or otherwise defaced after the applicant has completed and signed it. An application must be mailed or delivered in person to the office of the county clerk within 10 days after it is completed.

16. A person who willfully violates any of the provisions of subsection 13, 14 or 15 is guilty of a category E felony and shall be punished as provided in NRS 193.130.

17. The Secretary of State shall adopt regulations to carry out the provisions of this section.

Sec. 17. NRS 293B.354 is hereby amended to read as follows:

293B.354 1. The county clerk shall, not later than ~~[June]~~ *April* 15 of each year in which a general election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of ballots at a polling place, receiving center or central counting place.

2. The city clerk shall, not later than January 1 of each year in which a general city election is held, submit to the Secretary of State for his approval a written plan for the accommodation of members of the general public who observe the delivery, counting, handling and processing of the ballots at a polling place, receiving center or central counting place.

3. Each plan must include:

(a) The location of the central counting place and of each polling place and receiving center;

(b) A procedure for the establishment of areas within each polling place and receiving center and the central counting place from which members of the general public may observe the activities set forth in subsections 1 and 2;

(c) The requirements concerning the conduct of the members of the general public who observe the activities set forth in subsections 1 and 2; and

(d) Any other provisions relating to the accommodation of members of the general public who observe the activities set forth in subsections 1 and 2 which the county or city clerk considers appropriate.

Senator Woodhouse moved the adoption of the amendment.

Remarks by Senator Woodhouse.

Senator Woodhouse requested that her remarks be entered in the Journal.

Amendment No. 244 makes certain technical changes to Senate Bill No. 162 to align certain dates related to the election process with the June date for the primary election.

Specifically, the amendment changes certain filing dates for petitions of candidacy for minor-party candidates to place candidates' names on the ballot and to make related adjustments to filing dates for candidate lists and declarations of candidacy for minor political parties.

Amendment adopted.

Bill ordered reprinted, reengrossed and to third reading.

Senate Bill No. 43.

Bill read third time.

Conflict of interest declared by Senator Hardy.

Roll call on Senate Bill No. 43:

YEAS—20.

NAYS—None.

NOT VOTING—Hardy.

Senate Bill No. 43 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 49.

Bill read third time.

Roll call on Senate Bill No. 49:

YEAS—21.

NAYS—None.

Senate Bill No. 49 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 53.

Bill read third time.

Roll call on Senate Bill No. 53:

YEAS—21.

NAYS—None.

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

Senate Bill No. 59.
Bill read third time.
Roll call on Senate Bill No. 59:
YEAS—21.
NAYS—None.

Senate Bill No. 59 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 74.
Bill read third time.
Roll call on Senate Bill No. 74:
YEAS—21.
NAYS—None.

Senate Bill No. 74 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 83.
Bill read third time.
Roll call on Senate Bill No. 83:
YEAS—21.
NAYS—None.

Senate Bill No. 83 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 92.
Bill read third time.
Roll call on Senate Bill No. 92:
YEAS—21.
NAYS—None.

Senate Bill No. 92 having received a two-thirds majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 129.
Bill read third time.
Roll call on Senate Bill No. 129:
YEAS—21.
NAYS—None.

Senate Bill No. 129 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 136.

Bill read third time.

Roll call on Senate Bill No. 136:

YEAS—18.

NAYS—Carlton, Mathews, Washington—3.

Senate Bill No. 136 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 147.

Bill read third time.

Roll call on Senate Bill No. 147:

YEAS—21.

NAYS—None.

Senate Bill No. 147 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 152.

Bill read third time.

Conflict of interest declared by Senator Hardy.

Remarks by Senators Washington and Horsford.

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

SENATOR WASHINGTON:

I would like an explanation of this bill.

SENATOR HORSFORD:

Senate Bill No. 152 requires the Department of Employment, Training and Rehabilitation and the Housing Division of the Department of Business and Industry to establish contractual relationships with one or more nonprofit collaboratives. The purpose of the contracts is to create new energy-efficiency jobs and provide job training for residential weatherization, energy-retrofit applications or renewable-energy plants. The bill specifies the requirements for qualification as a collaborative, which include entering into written agreements with certain entities.

These entities must be able to provide programs in at least one of the three geographic regions of the State. To the extent money is available, funding for job training must include the cost of tuition and supplies and may include a cost-of-living stipend. Each contractor awarded a contract to perform residential weatherization using federal funds must pay prevailing wages as required by the Act, and offer employees and their dependents health-care coverage as specified in the bill.

Within 90 days after the effective date of the bill, the State Public Works Board, the board of trustees of each school district and the Board of Regents of the University of Nevada shall specify and prioritize projects subject to the provisions of Senate Bill No. 152 and in accordance with its terms. Each of these entities must provide a report to the Interim Finance Committee regarding these projects.

SENATOR WASHINGTON:
I read in the bill in section 10, at 90 days after the effective date of this bill, "each established project including without limitation" and it lists a number of objectives in this bill, the speaker mentioned the funding aspect of it with funds available. Are those funds coming from the federal stimulus package?

SENATOR HORSFORD:
Thank you, Mr. President. Yes.

Roll call on Senate Bill No. 152:
YEAS—20.
NAYS—None.
NOT VOTING—Hardy.

Senate Bill No. 152 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 159.
Bill read third time.
Roll call on Senate Bill No. 159:
YEAS—21.
NAYS—None.

Senate Bill No. 159 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 161.
Bill read third time.
Roll call on Senate Bill No. 161:
YEAS—21.
NAYS—None.

Senate Bill No. 161 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 165.
Bill read third time.
Roll call on Senate Bill No. 165:
YEAS—21.
NAYS—None.

Senate Bill No. 165 having received a constitutional majority, Mr. President declared it passed, as amended.
Bill ordered transmitted to the Assembly.

Senate Bill No. 169.
Bill read third time.
Roll call on Senate Bill No. 169:
YEAS—21.
NAYS—None.

Senate Bill No. 169 having received a two-thirds majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 190.

Bill read third time.

Conflict of interest declared by Senator Raggio.

Remarks by Senators Washington and Lee.

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

SENATOR WASHINGTON:
Does this bill apply to golf courses?

SENATOR LEE:
No.

Roll call on Senate Bill No. 190:
YEAS—20.
NAYS—None.
NOT VOTING—Raggio.

Senate Bill No. 190 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 194.

Bill read third time.

Roll call on Senate Bill No. 194:
YEAS—21.
NAYS—None.

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

Bill ordered transmitted to the Assembly.

Senate Bill No. 197.

Bill read third time.

Roll call on Senate Bill No. 197:
YEAS—21.
NAYS—None.

Senate Bill No. 197 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

Senate Bill No. 207.

Bill read third time.

Remarks by Senators Washington and Parks.

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

SENATOR WASHINGTON:

I would like some clarification on this bill. In the digest, it states that under existing law for public policy, the rights of people to access public places and public accommodations without discrimination is based upon race, religion, creed, color, age, sex and disability as well as sexual orientation. I am trying to figure out why it says, in section 2, "discrimination, based on sexual orientation in places of public accommodation." I wonder if it already exists in law and if this measure is really needed.

SENATOR PARKS:

Senate Bill No. 207 provides protection against discrimination based on sexual orientation in places of public accommodation. The bill further provides a remedy for a person who believes he has been discriminated against based on his or her sexual orientation by authorizing such a person to file a complaint with the Nevada Equal Rights Commission.

In response to my colleague from Washoe County with regard to it already being in law, four years ago this Legislature passed a bill that declared as its public policy the right of people to have access to places of public accommodation without discrimination based on their race, color, religion, national origin or disability. Added to that statement was sexual orientation. It was stated only as a policy.

SENATOR WASHINGTON:

Since we are policy makers, if it is already in current statute and it is stated as a public policy in NRS 233.010, is it not against the law to discriminate, or is it just a policy?

SENATOR PARKS:

It is currently state policy, but it is not illegal to discriminate. What this provision would do would be to make it illegal to discriminate, and it would allow someone who thought they had been discriminated against to go to the Equal Rights Commission to file a claim.

SENATOR WASHINGTON:

Under existing law and under the Nevada Equal Rights Commission, it does give them the authority to investigate any discrimination in a place or in public accommodations. Section 3 of the bill now gives new authorization to the Equal Rights Commission for complaints of sexual-orientation. Could the author of the bill explain why the complaint cannot be filed with the Equal Rights Commission if there is a complaint of sexual discrimination?

SENATOR PARKS:

Currently, that provision does not exist for persons who have a sexual-orientation discrimination request. This will put it in line with the other protected categories.

Roll call on Senate Bill No. 207:

YEAS—19.

NAYS—Cegavske, Washington—2.

Senate Bill No. 207 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 213.

Bill read third time.

Roll call on Senate Bill No. 213:

YEAS—21.

NAYS—None.

Senate Bill No. 213 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 214.

Bill read third time.

Remarks by Senator Carlton.

Senator Carlton requested that her remarks be entered in the Journal.

This bill does not remove dentists from the jurisdiction of the Dental Board. If they misbehave in this State, the Dental Board can still discipline them. This does not put our constituents in harms way of bad dental care. I believe this is a good bill, and it brings the dental profession into a new era of access to quality health care through a dental HMO.

We have had HMOs in this State for a long time. The people in this body have gone through how to establish those HMOs and have put the protections in place to make certain that it was good quality health care.

During the interim, there was an instance where a dental HMO came to the State through the Department of Insurance. There were difficulties with the legalities as far as whether they were supposed to be issued that certificate to do that work. They served the Washoe County School District. When the bill came up for hearing, we received a letter of support from the Washoe County School District. There were no problems with the actual dentist, but it was the description of who was allowed to practice dentistry and what the classification was. This would allow an HMO to exist in this State in order to allow people to have the option of dental care. We know when health-care benefits are cut, one of the first things to go is the dental coverage and the optometry coverage. This allows another way for dentists to do business in this State through the HMO model. I would not have processed this bill out of Committee if I thought it would do any harm to anyone in this State.

Roll call on Senate Bill No. 214:

YEAS—8.

NAYS—Amodei, Breeden, Cegavske, Hardy, Lee, Mathews, McGinness, Nolan, Raggio, Rhoads, Townsend, Washington, Wiener—13.

Senate Bill No. 214 having failed to receive a constitutional majority, Mr. President declared it lost.

Senate Bill No. 215.

Bill read third time.

Roll call on Senate Bill No. 215:

YEAS—21.

NAYS—None.

Senate Bill No. 215 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 220.

Bill read third time.

Roll call on Senate Bill No. 220:

YEAS—21.

NAYS—None.

Senate Bill No. 220 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 224.

Bill read third time.

Remarks by Senators Raggio and Care.

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

SENATOR RAGGIO:

Thank you, Mr. President. I voted against this measure in Committee. While I respect the sponsor's purpose for bringing the bill, I would like to make a few comments.

I understand the genesis, but there is a problem. This affects all public bodies, for example, county commissions and city councils. If there is a body with five members, for example, and three of the members have a conflict, then, that would leave only two people to vote, and they could never pass the measure, which might be of great importance.

This is my concern. You will preclude a measure from being addressed because you cannot get an actual majority due to conflicts. Someday, there will be a situation where an issue comes before a board of county commissioners or a city council and there will be a number of conflicts.

I think you are inviting some of these people to express a conflict, whether real or not, to cause this type of situation to happen. I appreciate the intent, but I feel we are creating a situation for local governing bodies that could create a problem, thereby, stopping the resolution of an issue.

SENATOR CARE:

The Minority Leader and I have debated this issue over the years. I would like to read the bill summary first.

The bill removes provisions in Nevada's open meeting law specifying that a quorum of an elected public body in Clark, Douglas, Elko and Washoe Counties and Carson City may only be reduced as a result of an abstention that if a member of the public body receives and discloses the opinion of the body's legal counsel that the abstention is required by law; therefore, such public bodies in these counties may not take action by vote unless a majority of all the members of the public body vote in favor of the action.

What this means is that, basically, an elected body, a city council or a county commission, in a county in excess of 40,000 people would be treated the same way both Houses of this Legislature are. If you abstain, it is a "no" vote.

The Minority Leader gave an example. You have a county commission or an elected body of five members and three say they have conflicts and they abstain. The problem is that the measure might pass by a majority vote, two out of two. That is not really a majority of the number of the elected members of the body. My personal feeling is it is a disservice to the voters who put the people in office to know that business can be conducted if fewer than a majority of the members they put in office even vote in the affirmative on the measure. There will be conflicts, but there is a temptation to sometimes sight a conflict when there really is none or to sight a conflict that does not require you to abstain but use that as an excuse for abstaining. The reality is there in statute, NRS 281A.420, that requires an office holder who makes a disclosure to go through the exercise as to whether he needs to then abstain. He would not in all cases. That is the reason for the bill.

Roll call on Senate Bill No. 224:

YEAS—14.

NAYS—Amodei, Cegavske, Hardy, Raggio, Rhoads, Townsend, Washington—7.

Senate Bill No. 224 having received a constitutional majority, Mr. President declared it passed.

Bill ordered transmitted to the Assembly.

Senate Bill No. 230.

Bill read third time.

Roll call on Senate Bill No. 230:
YEAS—21.
NAYS—None.

Senate Bill No. 230 having received a constitutional majority, Mr. President declared it passed, as amended.

Bill ordered transmitted to the Assembly.

MOTIONS, RESOLUTIONS AND NOTICES

Senator Care moved that Senate Bills Nos. 231, 249, 277, 302, 307, 317, 333, 334, 336, 342, 344, Senate Joint Resolutions Nos. 1, 8; Senate Joint Resolution No. 3 of the 74th Session; Assembly Bill No. 216; Assembly Joint Resolution No. 3 of the 74th Session be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senator Care.

Motion carried.

UNFINISHED BUSINESS

SIGNING OF BILLS AND RESOLUTIONS

There being no objections, the President and Secretary signed Assembly Concurrent Resolution No. 27.

GUESTS EXTENDED PRIVILEGE OF SENATE FLOOR

On request of Senator Amodei, the privilege of the floor of the Senate Chamber for this day was extended to the following Rite of Passage Charter High School students and staff: Gustavo Banvelos, Bradley DeBoe , Andy Estrada, Anthony McCall, Jose Montiel, Eric Garcia, Dylan Jenkens, Joshua Koeller, Adam Lage, Michael Ochoa, Ryan Putney, Michael Reed, Jose Rodriguez, Joseph Romero, Terry Taylor, Zachery Taylor, Terell Tindall, Michael Tveretinov, Shane Venberg, Dechawn Wallace, De'Andre Walters; staff: John Fitzgerald, Michael Reynolds, Rod Blanchart, John Trent and Jason Williams.

On request of Senator Mathews, the privilege of the floor of the Senate Chamber for this day was extended to the Home Educators of Faith School students and chaperones: Courtney Baxter, Ramona Baxter, Kory Alexander Borg, Reyna Borg, Joshua Boman, Sherrie Boman, Samantha Suessmith, Carrie Suessmith, Alyssa Bradley, Megan Bradley, Ian Bradley, Heather Bradley, Debbie Polito, Andrew Polito, Rachel Polito, Emma Rawson, Laura Cleland, Sam Cleland, Cas Cleland, Bryce Sanders, Ali Rushing, Seleah Rushing, Alison Boxwell, Matthew Boxwell, Christina Boxwell, Leah Boxwell, Rebecca Hedelius, Jeremiah Hedelius, Joshua Hedelius, Hannah Hedelius, Anne Hedelius, Stephanie Parker, William Parker, Kyle Hollingshead, Jack Hollingshead, Jacob McBride, Julia McBride, Jordan Winders, Rachael Winders, Nathan Tripp, Tyler Patmont, Walker Resney; chaperones: Tim Suessmith, Heather Rawson, Marita Sanders, Irene Rushing, Robin Hollingshead, Kammie McBride, Michelle Winders and Lupita Tripp.

On request of Senator Raggio, the privilege of the floor of the Senate Chamber for this day was extended to the George Westergard Elementary school students and chaperones and teachers: Nabila Akhter, Angelika Bumgarner, Michael Burns, Carson Buxton, Iris Cencer, Shi Chen, Duncan Crabtree, Dina Ditto, Tyler Dix, Benjamin Friedman, Jonas Gedvila, Heather Gonzales, Kaden Hardy, Devante Houston, Raegan Huckaby, Taylor Kenney, Bailey Melcher, Alexis Meyers, Zachary Murphy, Ryan O'Day, Daren Pennington, Alizeh Qureshi, Tiago Rinaldini, Zane Schroeder, Katelyn Zarate, Noelani Ahtoong, Jesse Ayala-Rodriguez, Jessica Barnes, Dino Barthel-Rosa, Cassidy Dullanty, Andrea Gillespie, Sean Gutierrez, Sean Hernandez, Nicolas Jones, Shrabya Joshee, Aaron Lesher, Chris Mathews, Richard Nava, Isabella Nielsen, Jordyn Owens, Sarah Pennington, Gregory Potts, Isabelle Richards, Austin Saunders, Madeleine Stuart, Austin Taylor, Emily Thompsen, Aaron Vaught, Henry Weisberg, Oliva Wilkins, Angel Alvarado, Sonya Bogle, Andrew Clark, Lauren Delrosario, Payton Dobbs, Skyler Dohr, Mariah Druitt, Justin Dynes, Brooklyn Gaborno, Graham Haley, Subah Islam, Monica Jensen, Armaan Judge, Annika Kerns, Christina Kerr, Tamanna Khan, Dylan Marchand, Mollie Moore, Gabriel Newberry, Brittain Oliver, Nelson Padilla, Andrew Palmer, Abigail Rivera, Tahmora Tweet-Inman, Haley Webbert, Luis Arias, Jeffery Canepa, Joshua Canepa, Collin Farquhar, Brook Garrett, Maria Grajeda Jimenez, Jessica Greene, Ashley Hobert, Grace Holliday, Sheldon Jensen, Trajan Jones, Christanae King, Joanna Le Galloudec, Noah Marcaida, Cody McCarty, Logan Mead, Cynthia Mejia Rodriguez, Anthony Morin, Cameron Nichols, Ramos Garcia Guillermo, Megan Ross, Alexander Sanchez, Darion Shaw, Haley Tomlin, Torrie Watson; chaperones and teachers: Tracy Chew, Patsy Buxton, Mei-Yung Chen, Gail Huckaby, Kitty Gillette, Heidi Barnes, Luis Barthel-Rosa, Jason Lesher, Tom Potts, Gina Thompsen, Jenny Weisberg, James Wilkins, Revae Henry, Jessica Harrington, Tom Kerns, Nicole Hosselkus, Kim Kandaras, Angela Tweet, Darcie Smith, Mason Smiley, Yuonita Dillon-Lee and Samantha Watson.

On request of Senator Townsend, the privilege of the floor of the Senate Chamber for this day was extended to the Lenz Elementary School students and chaperones: Shashank Addagarla, Maria Balesteros, Estrella Bunting, Elizabeth Calingaert, Luke Ludlow, Alexandra Rugg, Mackenzie Sullivan, Holly Choma, Irene Dickinson, Lauren Greb, Ryan Harper, Forrest Karo, Willis Allstead, Benjamin Harvey, Chance Stewart, Sarah Tacner; chaperones: Loren Brower, Gretchen Sullivan, Shirley Choma and Morgan Mitchell.

On request of President Krolicki, the privilege of the floor of the Senate Chamber for this day was extended to the following Southern Nevada Girl Scout Frontier Council: Courtney Carr, Charlotte Madrid, Kyann Mower, Joscelyn Heilmann, Brittany Divers, Nanci Brooks, Rebecca Stolar, Claire Dockery, Madeline Fitzgerald, Sandra Panknin, Lauren Ruskauff, Kaitlen

Koch, Kylee Koch, Shaffer Douglas, Ashley Smith, Roxanne Reed, Jana Burd, Laquencia Parker, Aubree Farmer, Taylr Paki, Caprice Loyd-Sanchez, Whitney Cole, Vada Ortiz, Brittany Lesperance, Jessaca Frakes, Allison Luciano, Tabitha Reyes, Tatiana Sisk, Dameah Cownts, Darian Hamada, Katie White, Stephanie Kozelnik and the following Northern Nevada Girl Scout Sierra Nevada Council: Cara Coleman, Emily Walsh, Shelby Riley, Paris Smallwood, Desiree Jouan, Mary Jean Wright, Peyton Hodel, Dianna King, Nicole Glynn, Sabrena Harris, Melonie Mecca, Elizabeth Penton, Ashely Radley, Ellen Wilson, Bailey Gordon, Gabrielle Vigue, Shizette Smith, Erica Knutson, Caroline Montiel, Scarlett McKee, Morgan Mitchell; chaperones: Janet Beach, Paula Cady, Donna Clontz, Patricia Elliott, Janet Erickson, Robin Ferguson, Judy Frederick, Martha Gould, Jimmy Lai, Amanda McKee, Misti Mecca, Francis Ortiz, Donna Roelle, Tina Smallwood, April Holly Smith, Emily Smith and Janet Traut.

Senator Horsford moved that the Senate, in conformance with Section 15 of Article 4 of the Constitution of the State of Nevada, with the consent of the Assembly, adjourn until Monday, April 13, 2009, at 11 a.m.

Motion carried.

Senate adjourned at 12:53 p.m.

Approved:

BRIAN K. KROLICKI
President of the Senate

Attest: CLAIRE J. CLIFT
Secretary of the Senate